99th Congress
2d Session

COMMITTEE PRINT

MINUTES

OF THE

BUSINESS MEETINGS AND HEARINGS

OF THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

(Pursuant to Committee Rule IVf)

PART 3

JUNE 25, 1986.—Printed for the use of the Committee on Agriculture

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COMMITTEE ON AGRICULTURE

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Phillip L. Fraas, *Counsel*
Charles Hilty, *Minority Staff Director*
Bernard Brenner, *Press Secretary*

Rule IVf of the Committee on Agriculture, House of Representatives, requires that the minutes of business meetings and hearings be published on a periodic basis.

In compliance with that rule, the minutes of business meetings and hearings from January 7, 1986, through June 25, 1986, are contained in this committee print.

The committee rule follows:

f. *Publication of Minutes.*—The Chairman of the Committee, in consultation with the Ranking Minority Member, shall cause to be published as a Committee Print on a periodic basis (and insofar as practicable on a semiannual basis) the minutes of all business meetings and hearings of the Committee and any of its Subcommittees and such minutes shall include a record of the attendance of members, all recorded votes and the action on all amendments and motions relating to legislation.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date January 7, 1986

(Sub) Committee: Forests, Family Farms, and Energy

Public Field Hearing

met at 9:00 a.m. o'clock, in Room Carl Albert Junior College Auditorium

for the purpose of reviewing current wilderness issues in the State of Oklahoma.

The following Members were present:	Members also present:	
Mr. Whitley	Mr. Watkins	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.

Witnesses:

1. George Kelly, Deputy Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, Arkansas 71901
2. Fox Wood, III, LeFlore County Conservation District, USDA, 101 South Walter, Poteau, Oklahoma 74953
3. Robert Timmer, Western Region Land Manager, Weyerhaeuser Co., Box 388, DeQueen, Arkansas 71832
4. Audrey Ballentine, LeFlore County Wilderness Association, Route 1, Box 15C, Wister, Oklahoma 74966
5. Tom Creider, Director, Division Planning and Development, Oklahoma Dept. of Tourism and Recreation, 500 Will Rogers Building, Oklahoma City, Oklahoma 73105
6. Rick Jamison, Executive Director, Oklahoma Wildlife Federation, 4545 Lincoln Blvd., Suite 171, Oklahoma City, Oklahoma 73105
7. Gene White, P.O. Box 158, Heavener, Oklahoma 74937
8. Claude Eberle, Superintendent of Schools, Smithville, Oklahoma 74957
9. Herschel G. Lester, 709 N. Walter Street, Poteau, Oklahoma 74953
10. David Jennings, 1422 N.W. 19th, Oklahoma City, Oklahoma 73106
11. Jack Kennedy, P.O. Box 12, Whitesboro, Oklahoma 74577
12. Don Cox, S.E. Region Vice President, Oklahoma Wildlife Federation, Star Route, Broken Bow, Oklahoma 74728
13. Jimmy Fraisier, P.O. Box 183, Poteau, Oklahoma 74953

Subcommittee Chairman Charles Whitley called the hearing to order and in an opening statement reviewed the House Agriculture Committee's jurisdiction and interest in the designation of additions to the National Forest Wilderness Preservation System. Mr. Whitley explained that the House Committees on Agriculture and Interior and Insular Affairs share jurisdiction on matters concerning the designation of wilderness areas in the National Forests. He related how four portions of the Ouachita National Forest were proposed for wilderness designation in the 98th Congress in a bill that also included areas in the State of Arkansas. Mr. Whitley noted that the Oklahoma portions of the bill were removed because the people of Oklahoma had not been allowed an opportunity to comment on the bill. The modified bill was later enacted into law as the Arkansas Wilderness Act of 1985, Mr. Whitley said.

When recognized for his opening statement, Mr. Watkins thanked Chairman Whitley for holding the hearing and welcomed the witnesses in attendance.

The witnesses listed on page 2 of these minutes were heard and questioned by the Members. After concluding remarks by the Members present, the hearing was adjourned at 12:30 p.m., subject to the call of the Chair.

Charles Rawls
Charles Rawls

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, January 29, 1986

~~(Sub)~~ Committee: Full

Public Hearing

met at 1:10 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the impact of the Gramm-Rudman-Hollings deficit reduction process on agricultural programs

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Tallon
Mr. Evans (Ill.)
Mr. Thomas

Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mrs. Smith (Nebr.)

Staff Present

Phillip L. Fraas
John E. Hogan
Charles Rawls
Mark Dungan
Bernard Brenner
Gary R. Mitchell
Mike Neruda
Kim Schnoor

Stephen Adams
Susan Adkins
Anita R. Brown
Robert A. Cashdollar
Carol Ann Dubard
Eugene Moos
Courtney Pastrick
Glenda L. Temple

Robert J. Fersh
Lynn Gallagher
Brenda B. Hatton
Charles Hilty
Steve Kerr
Rick Kirchhoff
Heidi Pender
Paulette Zakrzeski

Witnesses:

1. Mr. Stephen B. Dewhurst, Director, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Dr. Donald L. Houston, Administrator, Food Safety and Inspection Service, USDA

   Mr. David Hall, Director, Budget Division, Agricultural Stabilization and Conservation Service, USDA

   Mr. William Gardner, Director, Budget Planning and Analysis, Soil Conservation Service, USDA

   Mr. Dwight Calhoun, Deputy Administrator for Financial and Administrative Operations, Farmers Home Administration, USDA

   Mr. Thomas Conway, Deputy Assistant General Counsel, Office of General Counsel, USDA

Wednesday, January 29, 1986
Full Committee
Public Hearing
Review the impact of the Gramm-Rudman-Hollings deficit reduction process on agricultural programs

Chairman de la Garza called the meeting to order and made a brief opening statement on the need to review the impact of the Gramm-Rudman-Hollings deficit reduction process on agricultural programs. Mr. Roberts submitted a brief opening statement on the need for the hearing.

The Administration representative was recognized to present the U.S. Department of Agriculture's views on implementation of the Gramm-Rudman-Hollings legislation. Following his presentation Mr. Dewhurst and the other Departmental representatives were questioned by the Members of the Committee.

At 4:00 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, February 6, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 1:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing credit availability, delinquent loan servicing and lending policies of the Farmers Home Administration; and implementation of credit provisions of the 1985 farm bill

The following Members were present:

Mr. Jones (Tenn.)
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Tallon
Mr. Evans (Ill.)
Mr. Thomas
Mr. Stallings
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Rose
Mr. Bedell
Mr. Olin
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant

Witnesses:

Hon. Frank W. Naylor, Jr., Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Washington, D.C.

and

Mr. Vance L. Clark, Administrator, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C.

Thursday, February 6, 1986
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review credit availability, delinquent loan servicing and lending policies of the Farmers Home Administration; and implementation of credit provisions of the 1985 farm bill

Chairman Jones (Tenn.) called the meeting to order and made a brief opening statement on the need to look at agricultural credit availability and how FmHA intends to deal with the serious credit problems being experienced by thousands of farmers. In addition to the Chairman, opening remarks were made by the following Members of the Subcommittee: Messrs. Coleman, Daschle, Tallon, and Thomas.

The Administration witnesses listed on page 2 of these minutes were recognized for their presentations and following brief statements were questioned by the Members of the Subcommittee.

The Chairman announced that the hearing record would be left open to enable statements to be submitted for the record and to enable Members to submit additional questions to the Department for inclusion in the record. Mr. Jones (Tenn.) also asked Mr. Naylor to reinstitute the policy of providing on a weekly basis information on loans and applications for loans by state. There was no objection.

During the proceedings recesses were taken at 1:20 p.m. and 2:55 p.m. to enable Members to respond to recorded votes on the House floor. At 3:55 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 19, 1986

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 10:00 a.m o'clock, in Room 1300 Longworth House Office Building

for the purpose of receiving testimony on H.R. 4105, establishing farm program payment yields; H.R. 4078, Dry Edible Beans Amendments of 1986; H.R. 4079, Nonprogram Crop Amendments of 1986; and H.R. 4166, Nonprogram Crop Amendments of 1986

The following Members were present:

Mr. Foley
Mr. English
Mr. Bedell
Mr. Daschle
Mr. Volkmer
Mr. Glickman
Mr. Penny
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Marlenee
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Evans (Iowa)
Mr. Smith
Mr. Schuette
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Huckaby
Mr. Stallings
Mr. Traxler
Mr. Dorgan
Mr. Stenholm
Mrs Smith
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Gene Moos, Subcommittee Staff Director
Mike Neruda, Minority Consultant
Chip Conley, Staff Economist
Glenda Temple, Clerk
Carol Dubard, Staff Assistant
Brenda Hatton, Subcommittee Staff Director
Paulette Zakrzeski, Minority Consultant

Witnesses:

1. Hon. Virginia Smith, Member of Congress from Nebraska

2. Hon. Richard Stallings, Member of Congress from Idaho

3. Hon. Bob Traxler, Member of Congress from Michigan

4. Hon. Byron L. Dorgan, Member of Congress from North Dakota

5. Mr. William C. Bailey, Deputy Administrator for Program Planning and Development, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Ralph Linden, Office of General Counsel, USDA
   Mr. Charlie Cunningham, Deputy Director, Commodity Analysis Division, USDA

6. Panel:
   Mr. Bud Leuthold, of Billings, Montana, President, National Association of Wheat Growers
   Acc. by: Mr. Carl Schwensen, Executive Vice President

   Mr. Donovan Loeslie, of Warren, Minnesota, President, Minnesota Wheat Growers Association
   Acc. by: Mr. Gordon Sonstelie, First Vice President, Minnesota Wheat Growers Association, Winger, Minn.
   Mr. Gary Rudningen, Second Vice President, Minnesota Wheat Growers Association, Murdock, Minn.

   Mr. Dain Friend, of Warrensburg, Illinois, President, National Corn Growers Association

7. Panel:
   Mr. John C. Datt, Executive Director, American Farm Bureau Federation, Washington, D.C.

   Mr. Doug Michael, Immediate Past President, National Potato Council, Washington, D.C.

   Mr. John J. Connolly, Washington Representative, Western Growers Association, Washington, D.C.

8. Panel:
   Mr. Chips Barlow, of Hazleton, Idaho, Secretary-Treasurer, National Dry Bean Council

   Mr. Harold Wilson of Gooding, Idaho, Director on National Dry Bean Council, and representing Western Bean Dealers Association of Idaho

   Mr. Fred Ehrman of Gering, Nebraska, Immediate Past President, Nebraska Bean Growers

   Mr. Gary L. Kelley, Kelley Bean Company, Morrill, Nebraska

Wednesday, February 19, 1986
Wheat, Soybeans, and Feed Grains
  Subcommittee
Public Hearing
H.R. 4105, establishing farm program
payment yields; H.R. 4078, Dry Edible
Beans Amendments; H.R. 4079, Non-
program Crop Amendments; H.R. 4166,
Non program Crop Amendments

Witnesses Continued:

9. Panel:
   Mr. James E. Byrum, of Lansing, Michigan, Executive Secretary, Michigan Bean Commission

   Mr. Eric Bailey, Bailey Farms, St. Louis, Michigan

   Mr. Einer Thorlund, farmer, Greenville, Michigan

   Mr. Richard Fugleberg, President, North Harvest Bean Growers Association, Portland, North Dakota

Statements Submitted for the Record:

1. Hon. Tony Coelho, Member of Congress from California

2. Hon. Doug Bereuter, Member of Congress from Nebraska

3. Hon. Larry Craig, Member of Congress from Idaho

4. The Popcorn Institute, 1101 Connecticut Avenue, N.W., Washington, D.C. 20036

Mr. Foley, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains called the meeting to order for the purpose of receiving testimony on the above-captioned bills. Mr. Foley together with Mr. Marlenee and Mr. Schuette made brief opening comments on the need to consider the measures before the Subcommittee at the earliest possible date.

Without objection, H.R. 4166 was added to the list of bills under consideration by the Subcommittee. The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Wednesday, February 19, 1986
Wheat, Soybeans, and Feed Grains
  Subcommittee
Public Hearing
H.R. 4105, establishing farm program payment yields; H.R. 4078, Dry Edible Beans Amendments; H.R. 4079, Nonprogram Crop Amendments; H.R. 4166, Nonprogram Crop Amendments

Insertions into the record were made as follows: Mr. Coelho, by Mr. Foley; Mr. Bereuter, by Mr. Marlenee; and Mr. Craig, by Mr. Bedell.

Without objection, the Subcommittee decided to continue the hearing through the noon hour in order to mark up the legislation at the afternoon session. At 1:45 p.m. the meeting was adjourned to reconvene at 2:15 p.m. this date to consider the above-captioned bills for amendment.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 19, 1986

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Business Meeting

met at 2:15 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of marking up H.R. 4105, farm program payment yields; H.R. 4078, Dry Edible Beans Amendments of 1986; H.R. 4079, Nonprogram Crop Amendments of 1986; and H.R. 4166, Nonprogram Crop Amendments of 1986

The following Members were present:

Mr. Foley
Mr. English
Mr. Bedell
Mr. Daschle
Mr. Volkmer
Mr. Glickman
Mr. Penny
Mr. Whitley
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Marlenee
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Evans (Iowa)
Mr. Smith
Mr. Schuette
Mr.
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Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Cristobal Aldrete, Special Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Gene Moos, Subcommittee Staff Director
Mike Neruda, Minority Consultant
Carol Dubard, Staff Assistant
Glenda Temple, Clerk
Brenda Hatton, Subcommittee Staff Director
Paulette Zakrzeski, Minority Consultant
Chip Conley, Staff Economist
William E. O'Conner, Assistant Minority Staff Director

Witnesses:

Present from the U.S. Department of Agriculture to respond to questions:

Mr. William C. Bailey, Deputy Administrator for Program Planning and Development, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

Wednesday, February 19, 1986
Wheat, Soybeans, and Feed Grains
Subcommittee
Business Meeting
H.R. 4105, farm program payment
yields; H.R. 4078, Dry Edible
Beans Amendments; H.R. 4079, Non-
program Crop Amendments; and
H.R. 4166, Nonprogram Crop Amendments

Action Taken:

-- By show of hands vote 16 yeas-0 nays, H.R. 4105 ordered reported to the full Committee.

-- By voice vote amendment to H.R. 4079 agreed to.

-- By show of hands vote 14 yeas-2 nays, H.R. 4079, as amended, ordered reported to the full Committee.

Chairman Foley called the meeting to order for the purpose of marking up H.R. 4105, a bill to provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs; H.R. 4078, the Dry Edible Beans Amendments of 1986; H.R. 4079, the Nonprogram Crop Amendments of 1986; and H.R. 4166, the Nonprogram Crop Amendments of 1986.

Without objection H.R. 4105 was before the Committee (copy of bill and explanation attached). Mr. Foley explained the provisions of the bill and discussion occurred. Mr. Daschle moved that H.R. 4105 be reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (10 Members present at the time the vote was taken). Subsequently, to confirm the quorum, the motion was approved by a show of hands vote of 16 yeas-0 nays.

Since H.R. 4078, H.R. 4079, and H.R. 4166 were similar bills, Mr. Foley asked that they be considered en bloc and there was no objection. Copies and explanations of the bills are attached.

Discussion occurred and Mr. Foley stated that he felt the Subcommittee wished to include broader language to cover crops other than beans. He read the following language into the record for the Subcommittee's consideration:

> "In addition to requiring that the acres be devoted to conservation uses, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted

> to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely."

He explained that this language would track the language contained in the provisions of law relating to acreage reduction programs, and discussion continued.

Mr. Evans (Iowa) read the attached language into the record but did not formally offer it as an amendment. Discussion continued.

In an effort to try to merge the various ideas, Mr. Foley reread his proposal with additions, as follows:

> "In addition to requiring that the acres be devoted to conservation uses, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, including an industrial commodity, only if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely, or is necessary to provide industrial materials which are being imported or likely to be imported."

Discussion continued. During the discussion the Departmental representative advised that the Department had revised its position on H.R. 4078 and H.R. 4079 from opposed to no position.

Wednesday, February 19, 1986
Wheat, Soybeans, and Feed Grains
  Subcommittee
Business Meeting
H.R. 4105, farm program payment
yields; H.R. 4078, Dry Edible
Beans Amendments; H.R. 4079, Non-
program Crop Amendments; and
H.R. 4166, Nonprogram Crop Amendments

The Subcommittee decided to offer the language as an amendment to H.R. 4079, and staff was directed to draft the final language to reflect the discussion and intent of the Subcommittee.

By a voice vote the amendment was agreed to. Mr. Volkmer then moved that H.R. 4079, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a show of hands vote of 14 yeas-2 nays the motion was agreed to.

At 3:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

Amendment to H.R. 4079
Offered by Mr. Evans of Iowa

Page 5, after line 15, insert the following new section:

"Sec. 3. Production Of Industrial Raw Materials

The Food Security Act of 1985, Public Law 99-198, is amended by inserting the following new section in title X:

Sec. 1025 In administering the provisions of section 107D, section 105B, section 103A and section 101A of the Agricultural Act of 1949, the Secretary shall encourage, to the extent the Secretary deems it to be in the long term national interest and in the interest of developing markets for new agricultural crops, the production on underplanted acres, diverted acres and conserving acres of appropriate amounts of uncommon nonprogram crops which could yield industrial raw materials now imported into the United States or for which such imports are foreseen. Such encouragement shall be limited to nonprogram crops for which: no substantial domestic production or market now exists, or for which additional production would encourage increased industrial use; and for which industry in the United States has significant long term interest."

I

99TH CONGRESS
2D SESSION

H. R. 4105

To provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1986

Mr. FOLEY (for himself, Mr. DE LA GARZA, Mr. BEDELL, Mr. BRUCE, Mr. EMERSON, Mr. EVANS of Illinois, Mr. GLICKMAN, Mr. HUCKABY, Mr. MARLENEE, Mr. ROBERTS, Mr. ROBERT F. SMITH, Mr. STALLINGS, Mr. STANGELAND, and Mr. VOLKMER) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective beginning with the 1986 crops, paragraph (2) of section 506(b) of the Agricultural Act of 1949 is amended by—

(1) inserting "(A) after the paragraph designation; and

(2) adding at the end thereof the following:

"(B) Notwithstanding the foregoing provisions of this paragraph or paragraph (1), the farm program payment yield for the 1986 or 1987 crop year may not be established at a level less than the farm program payment yield established for the 1985 crop year.".

○

Explanation of H.R. 4105

The bill will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) governing the establishment of farm program payment yields for producers of the 1986 and 1987 crops of wheat, feed grains, upland cotton, and rice.

Under the 1985 Act, as a general rule, the program yield that will be assigned to producers for each of the 1986 and 1987 crops will be the average of the program yields assigned to farmers for each of the 1981 through 1985 crops, excluding the years with the highest and lowest program yields. This system will penalize farmers who have been able to have their program yield increased over that five-year period through gains in productivity.

H.R. 4105 will address this problem by adding a new provision to prohibit the Secretary from establishing the program yield for the 1986 or 1987 crop under this system at a level lower than the 1985 program yield.

I

99TH CONGRESS
2D SESSION

H. R. 4078

To amend the Agricultural Act of 1949 to require that dry edible beans not be treated as a nonprogram crop for purposes of certain payments under the price support programs for wheat, feed grains, upland cotton, and rice.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1986

Mr. TRAXLER (for himself and Mr. SCHUETTE) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend the Agricultural Act of 1949 to require that dry edible beans not be treated as a nonprogram crop for purposes of certain payments under the price support programs for wheat, feed grains, upland cotton, and rice.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dry Edible Beans Amendments of 1986".

SEC. 2. AMENDMENTS TO AGRICULTURAL ACT OF 1949.

(a) WHEAT PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 107D(c)(1)(C)(iii) of the Agricultural Act of 1949 is amended in the last sentence by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(2) DEFINITION OF NONPROGRAM CROP.—Section 107D(c)(1)(K) of the Agricultural Act of 1949 is amended by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(b) FEED GRAIN PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 105B(c)(1)(B)(iii) of the Agricultural Act of 1949 is amended in the last sentence by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(2) DEFINITION OF NONPROGRAM CROP.—Section 105B(c)(1)(I) of the Agricultural Act of 1949 is amended by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(c) COTTON PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 103A(c)(1)(B)(iii) of the Agricultural Act of 1949 is

amended in the last sentence by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(2) DEFINITION OF NONPROGRAM CROP.—Section 103A(c)(1)(G) of the Agricultural Act of 1949 is amended by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(d) RICE PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 101A(c)(1)(B)(iii) of the Agricultural Act of 1949 is amended in the last sentence by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

(2) DEFINITION OF NONPROGRAM CROP.—Section 101A(c)(1)(G) of the Agricultural Act of 1949 is amended by striking out "or soybeans" and inserting in lieu thereof "soybeans, or dry edible beans".

○

Explanation of H.R. 4078

H.R. 4078, the Dry Edible Beans Amendments of 1986, will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he puts in conservation use or that he plants to crops other than the program crop involved.

Under the 1985 Act, the farmer can plant up to to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage to the program crop can be waived.

H.R. 4078 will revise these so-called "underplanting" rules under the 1985 Act to prohibit, in addition, the planting of dry edible beans on permitted acreage.

I

99TH CONGRESS
2D SESSION

H. R. 4079

To amend the Agricultural Act of 1949 to authorize the Secretary of Agriculture to modify the definition of nonprogram crop to discourage any increase in the production of any commodity that would adversely affect the income of producers of that commodity.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1986

Mr. TRAXLER (for himself and Mr. SCHUETTE) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend the Agricultural Act of 1949 to authorize the Secretary of Agriculture to modify the definition of nonprogram crop to discourage any increase in the production of any commodity that would adversely affect the income of producers of that commodity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nonprogram Crop Amendments of 1986".

SEC. 2. AMENDMENTS TO AGRICULTURAL ACT OF 1949.

(a) WHEAT PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 107D(c)(1)(C)(iii) of the Agricultural Act of 1949 is amended in the last sentence—

(A) by inserting "on such acreage" after "plant", and

(B) by striking out "soybeans on such acreage" and inserting in lieu thereof the following: "soybeans, or any other commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this clause so as to adversely affect the income of the producers of such commodity".

(2) DEFINITION OF NONPROGRAM CROP.—Section 107D(c)(1)(K) of the Agricultural Act of 1949 is amended by inserting after "soybeans" the following: ", or other than a commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this paragraph so as to adversely affect the income of the producers of such commodity".

(b) FEED GRAIN PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section

105B(c)(1)(B)(iii) the Agricultural Act of 1949 is amended in the last sentence—

(A) by inserting "on such acreage" after "plant", and

(B) by striking out "soybeans on such acreage" and inserting in lieu thereof the following: "soybeans, or any other commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this clause so as to adversely affect the income of the producers of such commodity".

(2) DEFINITION OF NONPROGRAM CROP.—Section 105B(c)(1)(I) of the Agricultural Act of 1949 is amended by inserting after "soybeans" the following: ", or other than a commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this paragraph so as to adversely affect the income of the producers of such commodity".

(c) COTTON PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 103A(c)(1)(B)(iii) the Agricultural Act of 1949 is amended in the last sentence—

(A) by inserting "on such acreage" after "plant", and

(B) by striking out "soybeans on such acreage" and inserting in lieu thereof the following: "soybeans, or any other commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this clause so as to adversely affect the income of the producers of such commodity".

(2) DEFINITION OF NONPROGRAM CROP.—Section 103A(c)(1)(G) of the Agricultural Act of 1949 is amended by inserting after "soybeans" the following: ", or other than a commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this paragraph so as to adversely affect the income of the producers of such commodity".

(d) RICE PRICE SUPPORT PROGRAM.—

(1) LIMITATION ON ELIGIBILITY FOR PAYMENTS ON PLANTINGS IN QUARANTINE AREAS.—Section 101A(c)(1)(B)(iii) the Agricultural Act of 1949 is amended in the last sentence—

(A) by inserting "on such acreage" after "plant", and

(B) by striking out "soybeans on such acreage" and inserting in lieu thereof the following: "soybeans, or any other commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this clause so as to adversely affect the income of the producers of such commodity".

(2) DEFINITION OF NONPROGRAM CROP.—Section 101A(c)(1)(G) of the Agricultural Act of 1949 is amended by inserting after "soybeans" the following: ", or other than a commodity the production of which the Secretary determines (in the Secretary's discretion) would increase as a result of this paragraph so as to adversely affect the income of the producers of such commodity".

○

Explanation of H.R. 4079

H.R. 4079, the Nonprogram Crop Amendments of 1986, will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he puts in conservation use or that he plants to crops other than the program crop involved.

Under the 1985 Act, the farmer can plant up to to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage to the program crop can be waived.

H.R. 4079 will revise these so-called "underplanting" rules under the 1985 Act to enable the Secretary of Agriculture to prohibit farmers from planting other crops on the permitted acreage. Specifically, the Secretary could prohibit the planting of any other commodity the production of which the Secretary determines would increase as a result of the "underplanting" rules so as to adversely affect the income of producers of that commodity.

I

99TH CONGRESS
2D SESSION

H. R. 4166

To amend the Agricultural Act of 1949 to remove the authority for producers to plant nonprogram crops on certain excess acreage determined in connection with acreage limitation programs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1986

Mr. COELHO (for himself, Mr. PANETTA, Mr. FAZIO, Mr. PASHAYAN, and Mr. LEHMAN of California) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend the Agricultural Act of 1949 to remove the authority for producers to plant nonprogram crops on certain excess acreage determined in connection with acreage limitation programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nonprogram Crop Amendments of 1986".

SEC. 2. WHEAT PRICE SUPPORT PROGRAM.

Section 107D(c)(1) of the Agricultural Act of 1949 is amended—

(1) in clauses (i) and (iv) of subparagraph (C) by striking out "or nonprogram crops" each place it appears, and

(2) by striking out subparagraph (K).

SEC. 3. FEED GRAIN PRICE SUPPORT PROGRAM.

Section 105C(c)(1) of the Agricultural Act of 1949 is amended—

(1) in clauses (i) and (iv) of subparagraph (B) by striking out "or nonprogram crops" each place it appears, and

(2) by striking out subparagraph (I).

SEC. 4. COTTON PRICE SUPPORT PROGRAM.

Section 103A(c)(1) of the Agricultural Act of 1949 is amended—

(1) in clauses (i) and (iv) of subparagraph (B) by striking out "or nonprogram crops" each place it appears, and

(2) by striking out subparagraph (G).

SEC. 5. RICE PRICE SUPPORT PROGRAM.

Section 101A(c)(1) of the Agricultural Act of 1949 is amended—

(1) in clauses (i) and (iv) of subparagraph (B) by striking out "or nonprogram crops" each place it appears, and

(2) by striking out subparagraph (G).

○

Explanation of H.R. 4166

H.R. 4166, the Nonprogram Crop Amendments of 1986, will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he (1) puts in conservation use or (2) plants to crops other than the program crop involved.

Under the 1985 Act, the farmer can plant up to to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage to the program crop can be waived.

H.R. 4166 will revise these so-called "underplanting" rules under the 1985 Act to delete (except with respect to quarantined acreage) the part of the rules that allows farmers to plant other crops on the permitted acreage. Under the bill, the farmer could only receive target price payments if the acreage not planted to the program crop is devoted to conservation uses.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, February 20, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Business Meeting

met at 2:15 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 4188, a bill to effect the reductions in net expenditures for milk price support activities as required by the Balanced Budget and Emergency Deficit Control Act of 1985

The following Members were present:

Mr. Coelho
Mr. Volkmer
Mr. Olin
Mr. Penny
Mr. Stenholm
Mr. Daschle
Mr. Bedell
Mr. English
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Stangeland
Mr. Gunderson
Mr. Smith
Mr.
Mr.
Mr.
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Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Kim Schnoor, Subcommittee Staff Director
Courtney Pastrick, Staff Assistant
Jeffrey Weiss, Staff Assistant
Glenda Temple, Clerk
Steve Kerr, Minority Consultant
Carol Dubard, Staff Assistant
Howard Conley, Staff Economist

Witnesses:

Present to respond to Member's questions:

1. Ms. Jean Harmann, Office of House Legislative Counsel
2. Mr. Charles Shaw, Leader, Dairy and Sweetener Group, Agricultural Stabilization and Conservation Service, USDA

Thursday, February 20, 1986
Livestock, Dairy, and Poultry
Subcommittee
Business Meeting
H.R. 4188, Dairy program amendments

Action Taken:

-- By voice vote Jeffords clarifying amendment agreed to.

-- By voice vote H.R. 4188, as amended, ordered reported to the full Committee.

Chairman Coelho called the meeting to order for the purpose of considering H.R. 4188, a bill to effect the reductions in net expenditures for milk price support activities as required by the Balanced Budget and Emergency Deficit Control Act of 1986 (copy of draft bill and explanation attached).

Mr. Jeffords, the author of the legislation, was recognized to explain the bill and discussion occurred. Mr. Jeffords stated that while he did not have language drafted, he would like to amend the bill to conform to a measure being introduced on the Senate side so that the bills would be the same. The Jeffords amendment would change the starting date for the increased reduction in the price received by milk producers to April 1 and tie the increase to the 40-cent reduction required under current law. Staff was authorized to work out the appropriate language.

Mr. Gunderson moved the adoption of the Jeffords amendment, and by a voice vote the amendment was agreed to. Mr. Jeffords moved that H.R. 4188, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (11 Members present and voting).

Chairman Coelho advised that the full Committee would consider the bill on Wednesday, February 26.

Mr. Coelho advised the Members that he was writing the Internal Revenue Service to try to get a ruling as to whether payments to milk producers under the whole herd buy-out program would be considered capital gains. He stated he hoped to have an answer prior to the full Committee's consideration of H.R. 4188.

Discussion occurred on the whole herd buy-out program, and Mr. Stangeland stated he was disturbed about the regulations since the sign-up period ends on March 7. Considerable discussion occurred and staff was directed to get together with Departmental representatives prior to Wednesday's full Committee meeting to see if any action is needed.

Thursday, February 20, 1986
Livestock, Dairy, and Poultry Subcommittee
Business Meeting
H.R. 4188, Dairy program amendments

Discussion occurred on Gramm-Rudman cuts and the Food Safety and Inspection Service. Mr. Coelho explained a draft letter to the Secretary asking that a budget request be submitted to Congress so that already appropriated funds be made available in order to prevent the loss of inspectors. Staff was asked to check with the Appropriations Committee to see if further appropriation legislation would be needed.

At 3:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

(Original signature of Member)

99th CONGRESS
2nd SESSION

H.R. 4188

IN THE HOUSE OF REPRESENTATIVES

____________, 19__

Mr. Jeffords (for himself) Mr. Gunderson and Mr. Coelho

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(d)(2)(C) of the Agricultural Act of 1949, as amended by section 101(a) of the Food Security Act of 1985, (7 U.S.C. 1446(d)(2)(C)) is amended by --

(1) striking out "under subparagraph (A)" and inserting in lieu thereof "under this paragraph";

(2) inserting "(i)" after "(C)"; and

(3) inserting at the end thereof the following new clause:

> "(ii) Notwithstanding any provision of the Balanced Budget and Emergency Deficit Control Act of 1985, and the order of the President issued February 1, 1986, under section 252 of such Act with respect to fiscal year 1986, in lieu of the provisions of such order requiring a reduction in cash payments made by the Commodity Credit Corporation for dairy products, the Secretary shall implement, as the only method of complying with the President's order and solely for the purpose of reducing net expenditures by the Corporation for dairy products, a program to provide for a reduction of the necessary cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by the producers for commercial use during the period beginning on March 1, 1986, and ending on September 30, 1986. The amount of the reduction per hundredweight received by producers shall be no greater than needed to equal the reduction in net expenditures for milk price support activities required by the President's order."

Staff Analysis of H.R. 4188

H.R. 4188 will revise the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that provide for a reduction in the price received by producers for all milk produced in the contiguous 48 States and marketed for commercial use.

Under current law, a reduction is called for during the period beginning April 1, 1986, and ending September 30, 1987. The amount of the required reduction in the price of milk during calendar year 1986 is set at 40 cents per hundredweight.

Also under current law, the funds represented by the reduction in the price of milk will be collected and remitted to the Commodity Credit Corporation by milk handlers and producer-handlers. Funds remitted to the Commodity Credit Corporation will be considered as included in the payments to a producer of milk for the purposes of the minimum price provisions of the milk marketing order program.

H.R. 4188 will establish a new program for a further reduction in the price of milk during the period beginning March 1, 1986, and ending on September 30, 1986, to cover excess deficit reduction requirements under the Gramm-Rudman legislation.

Specifically, the bill will add language to the 1949 Act stating that, notwithstanding the Gramm-Rudman legislation and the sequestration order for fiscal year 1986 issued by the

President on February 1, and in lieu of the reduction in Commodity Credit Corporation cash outlays for dairy products in fiscal year 1986 planned by the Secretary of Agriculture to meet the requirements of the order, the Secretary must implement, instead, a new program of reducing the price received by producers of milk as the only method of complying with the sequestration order. The program, intended solely to reduce net expenditures by the Commodity Credit Corporation for dairy products in fiscal year 1986, will make a further reduction in the price received by producers in an amount, per hundredweight of milk, no greater than needed to equal the reduction in net expenditures for milk price support activities that otherwise would be achieved under the sequestration order.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, February 25, 1986

(~~Sub~~) Committee: Full

Business Meeting

met at 10:20 a.m. o'clock, in Room 1310 Longworth House Office Building

for the purpose of considering H.R. 4188, a bill to provide that Gramm-Rudman budget reductions for FY 1986 in the dairy price support program are made by increasing the previously scheduled milk assessments rather than by reducing price supports, and other pending business.

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Bedell
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Stenholm
Mr. Volkmer
Mr. Staggers
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.

Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Franklin
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Howard Conley, Staff Economist
Glenda Temple, Clerk
Kathy Hughes, Staff Assistant
Kim Schnoor, Subcommittee Staff Director
Courtney Pastrick, Staff Assistant
Jeff Weiss, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present from the Administration to respond to questions:

1. Mr. Richard Goldberg, Deputy Under Secretary, International Affairs and Commodity Programs, USDA

Tuesday, February 25, 1986
Full Committee
Business Meeting
H.R. 4188, effect reductions in net expenditures for milk price support activities as required by Balanced Budget and Emergency Deficit Control Act

Action Taken:

-- By unanimous voice vote Chairman instructed to send letter to Budget Committee in compliance with section 301 of the Congressional Budget Act of 1974.

-- By voice vote H.R. 4188, as amended, ordered reported to the House in the presence of a quorum.

Chairman de la Garza called the meeting to order for the purpose of considering the above-captioned bill and other pending business.

The Chairman distributed the attached draft letter to the Chairman of the House Committee on the Budget transmitting the recommendations of the Committee on Agriculture with respect to the fiscal year 1987 budget for the agencies and programs under the Committee's jurisdiction. Discussion occurred. Mr. Volkmer moved that the Chairman be instructed to send the letter and by a unanimous voice vote the motion was agreed to.

Mr. Coelho, Chairman of the Livestock, Dairy, and Poultry Subcommittee was recognized to present the Subcommittee's report on H.R. 4188, a bill to effect the reductions in net expenditures for milk price support activities as required by the Balanced Budget and Emergency Deficit Control Act of 1985. A copy of the bill, as reported from Subcommittee, and a brief explanation are attached to these minutes. Discussion occurred on the legislation and Mr. Gunderson moved that the bill be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (23 Members present and voting).

At 11:00 a.m. Acting Chairman Glickman adjourned the meeting to reconvene either in an emergency session this date to consider H.R. 4079 or at the previously scheduled meeting of the full Committee on Wednesday, February 26, at 10:00 a.m..

Glenda Temple
Glenda Temple

E (KIKA) DE LA GARZA, TEXAS,
CHAIRMAN
THOMAS S. FOLEY, WASHINGTON,
VICE CHAIRMAN
WALTER B. JONES, NORTH CAROLINA
ED JONES, TENNESSEE
GEORGE E. BROWN, JR., CALIFORNIA
CHARLES ROSE, NORTH CAROLINA
JIM WEAVER, OREGON
BERKLEY BEDELL, IOWA
ENGLISH, OKLAHOMA
E. PANETTA, CALIFORNIA
JERRY HUCKABY, LOUISIANA
DAN GLICKMAN, KANSAS
CHARLES WHITLEY, NORTH CAROLINA
TONY COELHO, CALIFORNIA
TOM DASCHLE, SOUTH DAKOTA
CHARLES W. STENHOLM, TEXAS
HAROLD L. VOLKMER, MISSOURI
CHARLES HATCHER, GEORGIA
ROBIN TALLON, SOUTH CAROLINA
HARLEY O. STAGGERS, JR., WEST VIRGINIA
LANE EVANS, ILLINOIS
ROBERT LINDSAY THOMAS, GEORGIA
JAMES R. OLIN, VIRGINIA
TIMOTHY J. PENNY, MINNESOTA
RICHARD H. STALLINGS, IDAHO
TERRY L. BRUCE, ILLINOIS

U.S. House of Representatives
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, DC 20515

EDWARD R. MADIGAN, ILLINOIS,
RANKING MINORITY MEMBER
JAMES M. JEFFORDS, VERMONT
E. THOMAS COLEMAN, MISSOURI
RON MARLENEE, MONTANA
LARRY J. HOPKINS, KENTUCKY
ARLAN STANGELAND, MINNESOTA
PAT ROBERTS, KANSAS
BILL EMERSON, MISSOURI
SID MORRISON, WASHINGTON
STEVE GUNDERSON, WISCONSIN
COOPER EVANS, IOWA
GENE CHAPPIE, CALIFORNIA
WEBB FRANKLIN, MISSISSIPPI
TOM LEWIS, FLORIDA
ROBERT F. (BOB) SMITH, OREGON
LARRY COMBEST, TEXAS
BILL SCHUETTE, MICHIGAN

A. MARIO CASTILLO,
CHIEF OF STAFF
PHILLIP L. FRAAS,
COUNSEL
CHARLES HILTY,
MINORITY STAFF DIRECTOR
BERNARD BRENNER,
PRESS SECRETARY

February 25, 1986

The Honorable William H. Gray, III
Chairman
House Committee on the Budget
214 Annex 1
Washington, D.C. 20515

Dear Mr. Chairman:

In compliance with section 301 of the Congressional Budget Act of 1974, I am transmitting to you the recommendations of the Committee on Agriculture with respect to the fiscal year 1987 budget for the agencies and programs under its jurisdiction.

At this time, the Committee on Agriculture would support a continuation in 1987 of budget authority at the fiscal year 1986 levels for all program funding provided in appropriations bills. Expenditures of the Commodity Credit Corporation, Federal Crop Insurance Corporation, and Farmers Home Administration are recommended at levels consistent with the provisions of the Food Security Act.

The Agriculture Committee recognizes the need to reduce Federal budget deficits and will cooperate with the Budget Committee to achieve the 1987 target deficit of $144 billion.

The Agriculture Committee is the only Committee to have its reconciliation savings for fiscal year 1986 enacted. The remaining savings of 1986 reconciliation legislation are still the subject of conference with the Senate and negotiations with the Administration. It is unclear exactly how much spending will need to be reduced to reach the 1987 target deficit.

Therefore, we cannot recommend specific reductions at this time nor can we endorse any of the proposed reductions contained in the President's budget submission. Indeed, continuing economic stress may require increases in some programs. We cannot propose user fees without sufficient evidence concerning the effect on specific industries, analysis of who would bear the cost of such fees, and consideration of who are the beneficiaries of Government services for which fees would be collected.

The Committee on Agriculture urges the Budget Committee to consider the difficulties besetting the farm economy and to remember that during the conference on the Food Security Act, $11.2 billion in spending reductions over the fiscal year 1986 through 1988 period were made, well beyond the $7.9 billion required.

With warm regards, I am

Sincerely,

E (Kika) de la Garza
Chairman

cch

COMMITTEE PRINT

Showing the Text of H.R. 4188, As Amended by the

Subcommittee on Livestock, Dairy, and Poultry

That section 201(d)(2) of the Agricultural Act of 1949 is amended by--

(1) in subparagraph (B) --

(A) striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (E), the"; and

(B) inserting "during" before "the period" in clause (i); and

(2) adding at the end thereof the following:

"(E)(i) The Secretary--

"(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) and the order issued by the President under section 252 of such Act on February 1, 1986 (or any substitute order issued by the President under section 252 at a later date, based on a Joint Resolution of Congress enacted under section 274(f) of such Act), and

"(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during the fiscal year ending September 30, 1986, under such order (or substitute order),

shall increase the amount of the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on April 1, 1986, and ending on September 30, 1986, as the sole means of achieving any reduction in budget outlays under the milk price support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

"(ii) The aggregate amount resulting from the increase under clause (i) in the reduction under subparagraph (A) may not exceed the aggregate amount of the reduction in budget outlays under the milk price support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during the fiscal year ending September 30, 1986.".

SEC. 2. The amendment made by section 1 shall take effect immediately before March 1, 1986.

Staff Analysis of H.R. 4188, as amended by the Subcommittee on Livestock, Dairy, and Poultry

H.R. 4188, as amended, will revise the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that provide for a reduction in the price received by producers for all milk produced in the contiguous 48 States and marketed for commercial use.

Under current law, a reduction is called for during the period beginning April 1, 1986, and ending September 30, 1987, to cover the costs of the whole herd buyout program. The amount of the required reduction in the price of milk during calendar year 1986 is set at 40 cents per hundredweight.

Also under current law, the funds represented by the reduction in the price of milk will be collected and remitted to the Commodity Credit Corporation by milk handlers and producer-handlers. Funds remitted to the Commodity Credit Corporation will be considered as included in the payments to a producer of milk for the purposes of the minimum price provisions of the milk marketing order program.

H.R. 4188, as amended, will increase the reduction in the price of milk during the period beginning April 1, 1986, and ending on September 30, 1986, to cover excess deficit reduction requirements under the Gramm-Rudman legislation.

Specifically, the bill will add language to the 1949 Act stating that, notwithstanding the Gramm-Rudman legislation and the sequestration order for fiscal year 1986 under that legislation and in lieu of the reduction in Commodity Credit Corporation cash payments for dairy product purchases in fiscal year 1986 planned by the Secretary of Agriculture to meet the requirements of the order, the Secretary must reduce further the price received by producers of milk as the only method of complying with the sequestration order. The increased reduction will be an amount, per hundredweight of milk, no greater than needed to achieve the reduction in outlays for milk price support activities that otherwise would be achieved under the sequestration order.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 26, 1986

~~(Sub)~~ Committee: Full

Business Meeting

met at 10:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 4105, establishing farm program payment yields, and H.R. 4079, modifying definition of nonprogram crop to discourage increase in production of any commodity adversely affecting income of producers of that commodity

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Bedell
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Evans (Ill.)
Mr. Thomas

Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
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Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Howard Conley, Staff Economist
William E. O'Conner, Jr., Assistant Minority Staff Director
Gene Moos, Subcommittee Staff Director
Mike Neruda, Minority Consultant
Brenda Hatton, Subcommittee Staff Director
Paulette Zakrzeski, Minority Consultant
Glenda Temple, Clerk

Witnesses:

Present from the Administration to respond to questions:

Mr. Richard Goldberg, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture

Mr. Tom Von Garlem, Assistant Deputy Administration, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture

Wednesday, February 26, 1986
Full Committee
Business Meeting - A.M.
H.R. 4105, farm program payment yields, and H.R. 4079, Nonprogram Crop Amendments

Action Taken:

-- Without objection Subcommittee on Cotton, Rice, and Sugar discharged from further consideration of pending bills.

-- Without objection Franklin amendment reformed.

-- Without objection Franklin request to amend title of bill agreed to.

-- By voice vote Franklin amendment defining "persons" in reconstituting farm organization structures agreed to.

-- By voice vote H.R. 4105, as amended, ordered reported to the House in the presence of a quorum.

-- Without objection Foley amendment including farm income of nonprogram crop producers agreed to.

-- Without objection Foley amendment previously adopted revised and to include report language.

-- Without objection Stenholm amendment revised to add cutoff date agreed to.

-- Without objection Stenholm amendment revised to reflect penalties for fraud.

Chairman de la Garza called the meeting to order for the purpose of considering H.R. 4105, a bill to provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs, and H.R. 4079, as amended, the Nonprogram Crop Amendments of 1986.

Mr. Huckaby, Chairman of the Subcommittee on Cotton, Rice, and Sugar, asked unanimous consent that his Subcommittee be discharged from further consideration of the bills reported by the Subcommittee on Wheat, Soybeans, and Feed Grains and pending before the full Committee. There was no objection.

Mr. Foley, Chairman of the Wheat, Soybeans, and Feed Grains Subcommittee was recognized to explain the provisions of H.R. 4105. A copy of the bill and explanation is attached to these minutes. Discussion occurred.

Wednesday, February 26, 1986
Full Committee
Business Meeting - A.M.
H.R. 4105, farm program payment
yields, and H.R. 4079, Nonprogram
Crop Amendments

Mr. Franklin offered the attached amendment dealing with what constitutes an individual and whether they are separate persons or entities in the reconstitution of farm organization structures. The amendment provides for the filing of reconstitution plans in compliance with regulations, but also provides for amendments to such plans to be submitted by April 1. Discussion occurred on the amendment.

Mr. Stenholm clarified that the Franklin amendment did not change the current regulatory filing date, but if the plans are denied or not acted upon, the farmer would have until April 1 to make revisions in the plans. He further clarified that no additional plans could be submitted to county ASCS offices after the regulatory deadline. Discussion continued. Mr. Foley asked unanimous consent that the staff be permitted to make any necessary changes in the Franklin amendment to reflect the colloquy between Mr. Stenholm and Mr. Franklin, and there was no objection.

Mr. Evans of Iowa questioned whether the Franklin amendment would be germane to the bill under consideration. Mr. Franklin asked unanimous consent to amend the title of the bill to add "and for other purposes." There was no objection, and by a voice vote the Franklin amendment was then agreed to.

Mr. Bedell moved that H.R. 4105, as amended, be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (27 Members present and voting). Staff was given permission to make any necessary clerical and technical changes.

Mr. Foley, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains explained the provisions of H.R. 4079 (copy of the bill as reported from the Subcommittee and explanation attached). Discussion occurred.

Mr. Foley moved to amend page 2 of the Committee Print to add "incluingd farm income of nonprogram crop producers" after the word "adversely". Discussion occurred and without objection the Foley amendment was agreed to.

Discussion continued on the legislation and Mr. Foley asked unanimous consent to revise his previously approved amendment to read "particularly with respect to nonprogram crop farm income". There was no objection. Following further discussion Mr. Foley asked unanimous consent that staff be permitted to revise the language to reflect the Committee's intent on what crops are included. He also suggested that the Committee report deal with the haying and grazing issue. There was no objection.

Wednesday, February 26, 1986
Full Committee
Business Meeting - A.M.
H.R. 4105, farm program payment
yields, and H.R. 4079, Nonprogram
Crop Amendments

Mr. Stenholm offered the attached amendment to provide that those who have planted on the date of enactment of the legislation or have contracted to plant be permitted to function as if the legislation had not passed. Discussion occurred and Mr. Stenholm asked unanimous consent to revise his amendment to delete "enactment of this provision" and substitute in lieu thereof the date the Subcommittee took action (February 19). There was no objection.

Mr. Foley questioned the penalty for fraudulent action and Mr. Stenholm asked unanimous consent that the staff be permitted to make any necessary change to reflect that fraud would carry the usual civil or ciminal penalties under law. There was no objection.

At 12:10 p.m. the meeting was adjourned to reconvene at 1:30 p.m. this date to continue consideration of H.R. 4079 and the pending Stenholm amendment.

Glenda Temple
Glenda Temple

99TH CONGRESS
2D SESSION

H. R. 4105

To provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1986

Mr. FOLEY (for himself, Mr. DE LA GARZA, Mr. BEDELL, Mr. BRUCE, Mr. EMERSON, Mr. EVANS of Illinois, Mr. GLICKMAN, Mr. HUCKABY, Mr. MARLENEE, Mr. ROBERTS, Mr. ROBERT F. SMITH, Mr. STALLINGS, Mr. STANGELAND, and Mr. VOLKMER) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To provide for an equitable method of establishing 1986 and 1987 farm program payment yields for the purposes of the wheat, feed grain, upland cotton, and rice programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective beginning with the 1986 crops, paragraph (2) of section 506(b) of the Agricultural Act of 1949 is amended by—

(1) inserting "(A) after the paragraph designation; and

(2) adding at the end thereof the following:

"(B) Notwithstanding the foregoing provisions of this paragraph or paragraph (1), the farm program payment yield for the 1986 or 1987 crop year may not be established at a level less than the farm program payment yield established for the 1985 crop year.".

○

Explanation of H.R. 4105

The bill will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) governing the establishment of farm program payment yields for producers of the 1986 and 1987 crops of wheat, feed grains, upland cotton, and rice.

Under the 1985 Act, as a general rule, the program yield that will be assigned to producers for each of the 1986 and 1987 crops will be the average of the program yields assigned to farmers for each of the 1981 through 1985 crops, excluding the years with the highest and lowest program yields. This system will penalize farmers who have been able to have their program yield increased over that five-year period through gains in productivity.

H.R. 4105 will address this problem by adding a new provision to prohibit the Secretary from establishing the program yield for the 1986 or 1987 crop under this system at a level lower than the 1985 program yield.

3

Amendment to H.R. _________

Offered by Mr. Franklin

On page ____ insert the following new section:

"Sec. ____. The Food Security Act of 1985 (PL 99-198) is amended as follows:

In title X after "Sec. 1001." insert "(a)".

After the new subsection (a) insert the following:

"(b) Notwithstanding any other provision of this section, for the 1986 crops of wheat, feed grains, upland cotton and rice, in determining the definition of "persons" as required under paragraph (5) of this section, the Secretary shall provide, in the case of individuals whose applications for a change in status have been denied ~~as of March 1, 1986~~, that such individuals may reapply by April 1, 1986 for a determination whether multiple individuals or other entities constitute one or separate persons.

COMMITTEE PRINT

Showing the Text of H.R. 4079, As Amended By the Subcommittee on Wheat, Soybeans, and Feed Grains

That this Act may be cited as the "Nonprogram Crop Amendments Act of 1986".

WHEAT TARGET PRICE PROGRAM

SEC. 2. Section 107D(c)(1) of the Agricultural Act of 1949 is amended by--

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (C) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (K))";

(2) striking out the last sentence of clause (iii) of subparagraph (C) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (K))."; and

(3) striking out subparagraph (K) and inserting in lieu thereof the following:

"(K) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustardseed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States, and commodities, other than program crops, grown for experimental purposes), subject to the provisions of the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that--

"(i) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely; and

"(ii)(I) the production is needed to provide an adequate supply of the commodity, or

"(II) with respect to such commodities for which no substantial domestic production or market exits but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.".

FEED GRAIN TARGET PRICE PROGRAM

SEC. 3. Section 105C(c)(1) of the Agricultural Act of 1949 is amended by--

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (I))";

(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (I))."; and

(3) striking out subparagraph (I) and inserting in lieu thereof the following:

"(I) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States, and commodities, other than program crops, grown for experimental purposes), subject to the provisions of the following sentence. The Secretary may permit

such acreage to be devoted to such production only if the Secretary determines that--

"(i) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely; and

"(ii)(I) the production is needed to provide an adequate supply of the commodity, or

"(II) with respect to such commodities for which no substantial domestic production or market exits but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.".

UPLAND COTTON TARGET PRICE PROGRAM

SEC. 4. Section 103A(c)(1) of the Agricultural Act of 1949 is amended by--

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (G))";

(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G))."; and

(3) striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States, and commodities, other than program crops, grown for experimental purposes), subject to the provisions of the following sentence. The Secretary may permit

such acreage to be devoted to such production only if the Secretary determines that--

"(i) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely; and

"(ii)(I) the production is needed to provide an adequate supply of the commodity, or

"(II) with respect to such commodities for which no substantial domestic production or market exits but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.".

RICE TARGET PRICE PROGRAM

SEC. 5. Section 101A(c)(1) of the Agricultural Act of 1949 is amended by--

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (G))";

(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G))."; and

(3) striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States, and commodities, other than program crops, grown for experimental purposes), subject to the provisions of the following sentence. The Secretary may permit

such acreage to be devoted to such production only if the Secretary determines that--

"(i) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely; and

"(ii)(I) the production is needed to provide an adequate supply of the commodity, or

"(II) with respect to such commodities for which no substantial domestic production or market exits but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.".

Explanation of H.R. 4079, as amended by the Subcommittee on Wheat, Soybeans, and Feed Grains

H.R. 4079, the Nonprogram Crop Amendments of 1986, as amended, will amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he puts in conservation use or that he plants to crops other than the program crop involved.

Under the 1985 Act, the farmer can plant up to to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage to the program crop can be waived.

H.R. 4079, as amended, will revise these so-called "underplanting" rules under the 1985 Act to restrict the authority for farmers to plant other crops on the permitted acreage. Specifically, the planting of the acreage to any nonconserving crop would not be permitted as a general rule. However, the Secretary of Agriculture would have the authority to allow such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States, and commodities, other than program crops, grown for experimental purposes), subject to the following restrictions: The Secretary could permit such acreage to be devoted to such production only if the Secretary determines that--

(1) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely; and

(2)(a) the production is needed to provide an adequate supply of the commodity, or

(b) with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

Amendment to the Nonprogram Crop Provisions To Take Account of Producers Who Have Already Planted or Contracted to Plant

Offered By Mr. Stenholm

In Section 107D(c)(1)(K) (relating to the wheat program), proposed to be added to the Agricultural Act of 1949--

(1) strike out "following sentence" in the first sentence and insert in lieu thereof "following sentences"; and

(2) add at the end thereof the following:

"Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of wheat who, prior to enactment of this provision, planted or contracted to plant a portion of the producer's permitted wheat acreage to a nonconserving crop, the Secretary shall waive, fully or partially, any restriction on the planting of nonconserving crops on such producer's permitted wheat acreage under the provisions of subparagraph (C) or the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions.

Secretary shall require proper validation of planting, or filing of any contract to plant, at the time of sign up. Any producer who fails to comply with this provision, or submits a fraudulent contract to plant, shall repay immediately the amount received under this provision, plus interest thereon in such amount as the Secretary shall prescribe by regulation."

Amend the comparable sections relating to the feed grain, upland cotton, and rice programs, proposed to be added to the Agricultural Act of 1949, in the same manner.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 26, 1986

~~(Sub)~~ Committee: Full
Business Meeting

met at 1:55 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 4079, Nonprogram Crop Amendments of 1986

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones (Tenn.)
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher

Mr. Tallon
Mr. Staggers
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minroity Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Gene Moos, Subcommittee Staff Director
Brenda Hatton, Subcommittee Staff Director
Mike Neruda, Minority Consultant
Paulette Zakrzeski, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

The following representative of the Administration was present to respond to questions:

Mr. Richard Goldberg, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture

Wednesday, February 26, 1986
Full Committee
Business Meeting - P.M.
H.R. 4079, Nonprogram Crop Amendments of 1986

Action Taken:

-- By voice vote Stenholm amendment, as amended, agreed to.

-- Without objection Coelho report language dealing with quarantine areas approved.

-- By voice vote Smith amendment providing percentage of set-aside adopted.

-- By voice vote Stangeland-Coelho amendment on whole herd buyout agreed to.

-- By voice vote Coelho-de la Garza amendment on cross-bred calves and producer's base agreed to.

-- By roll call vote of 40 yeas-0 nays H.R. 4079, as amended, ordered reported to the House in the presence of a quorum.

Chairman de la Garza called the meeting to order for the purpose of continuing consideration of H.R. 4079, the Nonprogram Crop Amendments of 1986. (See A.M. minutes for copy of Committee Print, explanation, and pending Stenholm amendment.)

For purposes of legislative history and to give direction to the Department, Chairman de la Garza read into the record the last paragraph of the bill. He stated that the types of materials referred to would include commodities such as kenaf, guayule, and jojoba.

Messrs. Stenholm, Schuette, and Foley engaged in a colloquy to clarify that the language be tightened to reflect the intent of the Committee that the contracts are for one year, one crop. Mr. Stenholm reiterated that his amendment was changed to reflect the February 19 date and that nonprogram crops be used since there was not a definition for nonconserving crop. Staff was directed to make any necessary changes to reflect the Committee's intent, and by a voice vote the Stenholm amendment, as amended, was approved.

Discussion occurred on definitions of program and nonprogram commodities.

Mr. Coelho suggested report language dealing with quarantine areas and without objection the proposal was approved.

Wednesday, February 26, 1986
Full Committee
Business Meeting - P.M.
H.R. 4079, Nonprogram Crop Amendments of 1986

Discussion continued on the definitions of program and nonprogram crops. Mr. Coelho suggested that staff be authorized to work out the language and clear it with the Chairman and Ranking Minority Member of the Committee and the Subcommittee, and there was no objection.

Mr. Smith offered the attached amendment to provide that the set-aside contained in the farm bill may be 25, 30, or 35 percent. Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Stangeland offered on behalf of himself and Mr. Coelho the attached amendment which would extend the time for considering offers for whole herd buyout from March 7 to April 1, and provide determination of the base for whole herd buyout. Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Coelho offered on behalf of Chairman de la Garza the attached technical amendment which would change the whole herd buyout program to provide that certain dairy producers who cross breed dairy cows with beef bulls would sell the calves for feeding as beef cattle for purposes of determining whether to make reductions in a dairy producer's base under the program. Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Coelho moved that H.R. 4079, as amended, be ordered reported to the House with the recommendation that it do pass. The clerk was directed to call the roll and the vote follows:

Wednesday, February 26, 1986
Full Committee
Business Meeting - P.M.
H.R. 4079, Nonprogram Crop Amendments of 1986

YEAS

1. Mr. Panetta
2. Mr. Coelho
3. Mr. Stenholm
4. Mr. Volkmer (proxy to Mr. Coelho)
5. Mr. Stallings
6. Mr. Madigan (proxy to Mr. Jeffords)
7. Mr. Jeffords
8. Mr. Coleman (proxy to Mr. (Jeffords)
9. Mr. Marlenee
10. Mr. Hopkins
11. Mr. Stangeland
12. Mr. Roberts
13. Mr. Emerson
14. Mr. Morrison
15. Mr. Gunderson
16. Mr. Evans (Iowa)
17. Mr. Chappie
18. Mr. Franklin
19. Mr. Lewis
20. Mr. Smith (proxy to Mr. Jeffords)
21. Mr. Combest
22. Mr. Schuette
23. Mr. Bedell
24. Mr. Glickman
25. Mr. Whitley
26. Mr. Daschle
27. Mr. Tallon
28. Mr. Staggers
29. Mr. Evans (Ill.) (proxy to (Mr. Panetta)
30. Mr. Thomas (proxy to Mr. Panetta)
31. Mr. Penny
32. Mr. Bruce
33. Mr. de la Garza
34. Mr. Foley
35. Mr. Hatcher
36. Mr. Jones (Tenn.)
37. Mr. Olin
38. Mr. Huckaby
39. Mr. Weaver
40. Mr. Rose

NAYS

None

Thus, by a roll call vote of 40 yeas-0 nays, the motion was agreed to and H.R. 4079, as amended, was ordered reported to the House in the presence of a quorum (34 Members present and voting). Staff was given permission to make any necessary technical or clarifying changes in the bill.

During the proceedings recesses were taken at 2:00 p.m. and 2:25 p.m. to enable Members to respond to recorded votes on the House floor. At 4:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

Amendment to H.R. 4079
Offered by Mr. Smith

At the end of the bill, insert the following new section:

PRIOR PLANTING OPTION FOR 1986 CROP OF WHEAT.

Sec. __. Section 107D(f)(5)(B)(i)(I) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985) is amended by striking out "10 percent" and inserting in lieu thereof "5 or 10 percent (at the option of the producers)".

Conforming amendment: add "and for other purposes" to the title of the bill.

Hangeland

COELHO152

[DISCUSSION DRAFT]

24 February 1986; 1:00 p.m.

[Language Regarding Milk Production Termination Program]

PERIOD FOR RECEIVING PRODUCERS´ OFFERS TO TERMINATE MILK PRODUCTION

SEC. . Section 201(d)(3)(A)(v) of the Agricultural Act of 1949 is amended by adding at the end thereof the following:

``For purposes of carrying out the milk production termination program required under this subparagraph, the Secretary shall receive and consider all offers submitted to the Secretary before April 1, 1986, by producers who seek to enter into contracts under this subparagraph.´´.

USE OF MARKETING HISTORY IN EVALUATING BIDS UNDER MILK PRODUCTION TERMINATION PROGRAM

SEC. . Section 201(d)(3)(A) of the Agricultural Act of 1949 is amended by adding at the end thereof the following new clause:

``(viii) For purposes of this subparagraph, the term `marketing history´ means--

``(I) in the case of any producer who participated in the milk diversion program under this paragraph as in effect before the date of the enactment of the Food Security Act of 1985, either the marketing history chosen by such producer under such diversion program but without counting twice the January through March quarter of any year, or the marketings of milk by such producer for commercial use during calendar year 1985, whichever quantity such producer chooses for the purpose of participating in the milk production termination program under this subparagraph; and

``(II) in the case of any other producer, the marketings of milk by such producer for commercial use either during the 12-month period beginning July 1984 or during calendar year 1985, whichever quantity is less.

For purposes of evaluating each offer by a producer to enter into a contract for payments under this subparagraph, the Secretary may not take into consideration any marketings of milk other than the marketing history (as defined in this clause) of such producer.''.

Effective Date

SEC. . This Act and the amendments made by this Act shall take effect on December 23, 1985.

An Amendment by Mr. de la Garza

This amendment will make a technical change in the whole herd buyout program that was approved as part of H.R. 2100, the 1985 farm bill. Under the program, certain dairy producers who cross breed their dairy cows with beef bulls and sell these calves for feeding as beef cattle are having their dairy production base reduced by 20,000 pounds of milk equivalent per head sold. This amendment will clarify that these calves are to be considered as beef cattle for the purposes of determining whether or not to make reductions in a dairy producers base under the program.

The amendment also provides the Department of Agriculture with the authority to issue regulations to allow dairy producers to present evidence to the Department that these cattle were used only for beef production or other non-dairy purposes.

Paragraph (3) of section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended by adding subparagraph

(F) (i) Effective for the period from January 1, 1986 through the date when a dairy producer signs a contract to participate in the dairy termination program, for the purposes of determining whether to make reductions in a producer's dairy production base under this program, the Secretary may not consider as dairy cattle the crossbred progeny of dairy and beef cattle that are raised or sold for the purpose of beef production or other purposes not related to milk production.

(ii) The Secretary shall prescribe such regulations as are necessary to allow producers to provide evidence to establish that these cattle were used for beef production or other purposes not related to milk production.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 7, 1986

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Meeting: Public Field Hearing

Subject: To review domestic nutrition assistance programs and hunger conditions in the Detroit area

Bill Nos.

The Domestic Marketing, Consumer Relations & Nutrition (Sub) Committee

met in Open Session at 9:05 a.m. o'clock, in Room 13th Floor Auditorium, City-County Bldg., Detroit, MI.

The following Members were present:

Mr. Panetta
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present
Mr. Levin
Mr. Crockett
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Deborah A. Dawson

Witnesses: - 2 -

Panel 1

Ms. Barbara J. Parker, Executive Assistant to Mayor Coleman Young, City of Detroit, Detroit, Michigan
Mr. William V. Weatherston, Vice President for Corporate Affairs, Stroh's Brewery, Detroit, Michigan

Panel 2

Mrs. Cassandra Smith Gray, Executive Director, Neighborhood Services Department, City of Detroit, Detroit, Michigan
Dr. John Waller, Director, Public Health Director, City of Detroit Health Department, Detroit, Michigan
Mrs. Lillie M. Tabor, Director, Wayne County Department of Social Services, Michigan State Department of Social Services, Detroit, Michigan
Father William T. Cunningham, Director, Focus:HOPE, Detroit, Michigan
Acc. by: Ms. Bertha Harden, Focus:HOPE Foods for Seniors, Detroit, Michigan
Ms. Kathleen White, Focus:HOPE, Detroit, Michigan
Ms. Mary Ann Vandemark, Director, Human Development Commission, Caro, Michigan

Panel 3

Reverend Edwin Rowe, Pastor, Cass Community United Methodist Church, Detroit, Michigan
Ms. Shirley Powell, Executive Director, Southeastern Michigan Food Coalition; Secretary, Food and Nutrition Advisory Commission, Michigan Department of Public Health, Detroit, Michigan
Reverend Ann Johnson, Program Director, St. Ann Mission/St. John Community Center, Detroit, Michigan

Panel 4

Dr. Richard E. Smith, Obstetrician-Director, Young Adults, Henry Ford Hospital, Detroit, Michigan
Elizabeth F. Gordon, Ph.D., Assistant Professor of Pediatrics and Director of Research, Michigan State University and Hurley Medical Center, Flint, Michigan
Ms. Helen A. Siudara, R.D., Nutrition Services Specialist, Area Agency on Aging, Southfield, Michigan

Panel 5

Honorable James Blanchard, Governor, State of Michigan, Lansing, Michigan

U.S. GOVERNMENT PRINTING OFFICE 81—84773-1

Friday, March 7, 1985
Subcommittee on Domestic
  Marketing, Consumer Relations,
  and Nutrition
Public Field Hearing - Detroit,
  Michigan
To review domestic nutrition
  assistance programs and hunger
  conditions in the Detroit area

Chairman Panetta called the meeting to order at 9:05 a.m. for the purpose of hearing testimony from the witnesses listed on page 2 of these minutes. Upon completion of their prepared statements, the witnesses were questioned by the Members present.

The Chairman adjourned the meeting at 12:42 p.m. subject to the call of the chair.

Deborah A. Dawson
Deborah A. Dawson

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 13, 1986

(Sub) Committee: Tobacco and Peanuts

Business Meeting

met at 1:05 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering tobacco pesticide amendment; end user amendment; Gramm-Rudman-Hollings; blending; tobacco assessment; sales program; export figures under reconciliation

The following Members were present:

Mr. Rose
Mr. Hatcher
Mr. English
Mr. Whitley
Mr. Tallon
Mr. Thomas
Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Staff Present:

Phil Fraas, Counsel
Charles Rawls, Associate Counsel
Bernie Brenner, Press Secretary
Joan Teague Rose, Staff Consultant
Heidi Pender, Subcommittee Staff Director
Rick Kirchhoff, Minority Consultant
Glenda Temple, Clerk
Carol Dubard, Staff Assistant

Witnesses:

Present to respond to Member's questions:

1. Mr. Lionel Edwards, Director, Tobacco Division, Agricultural Marketing Service, USDA
2. Mr. Dallas Smith, Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, USDA
3. Mr. Jay York, Deputy Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, USDA
4. Mr. Jack Forlines, Agricultural Programs Specialist, Agricultural Stabilization and Conservation Service, USDA
5. Mr. Ralph Linden, Office of General Counsel, USDA
6. Mr. Wendell Billingsley, Tobacco Operations, Agricultural Stabilization and Conservation Service, USDA
7. Dr. Robert Miller, Group Leader, Tobacco and Peanut Group, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, USDA
8. Mr. Kirk Wayne, President, Tobacco Associates, Inc. Washington, D.C.
9. Mr. John Parker, North Carolina Farm Bureau

Thursday, March 13, 1986
Tobacco and Peanuts Subcommittee
Business Meeting
Tobacco pesticide amendment; end
user amendment; Gramm-Rudman-
Hollings; blending; tobacco
assessments; sales program;
export figures under
reconciliation

Chairman Rose called the meeting to order for the purpose of considering a number of tobacco issues, as follows: Regulation of imported tobacco containing pesticides banned for use in the United States; the end user certification requirement; the effect of Gramm-Rudman-Hollings on the tobacco price support program; the blending of U.S. tobacco with foreign tobacco and the subsequent sale of this tobacco as U.S. tobacco; the calculation of the 1986 flue-cured assessment; flue-cured stabilization's direct sales program; and calculation of export figures under the reconciliation bill.

The Chairman announced that he had invited USDA representatives to be present to discuss the issues with the Subcommittee. The Subcommittee then discussed the above-cited issues with the Administration representatives and members of the public as noted on page 2 of these minutes.

The Subcommittee felt that future hearings on the export of tobacco might be helpful. In addition, the Subcommittee will consider sending a letter to the Secretary concerning the period for comment on the regulations since Brazilian tobacco is already being readied for shipment.

During the proceedings one recess was taken at 2:00 p.m. to enable Members to respond to a recorded vote on the House floor. At 3:10 p.m. the meeting was adjourned to reconvene on Tuesday, March 18, to consider the peanut program regulations.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, March 18, 1986

(Sub) Committee: Tobacco and Peanuts

Business Meeting

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of Reviewing peanut section of the Food Security Act of 1985; forthcoming peanut regulations; Gramm-Rudman-Hollings; peanut poundage quota calculations for 1986; additional peanuts contracted for export; distribution of additional quota

The following Members were present:

Mr. Rose
Mr. Hatcher
Mr. English
Mr. Whitley
Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Combest
Mr.
Mr.
Mr.
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Staff Present

Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Joan Teague Rose, Staff Consultant
Heidi Pender, Subcommittee Staff Director
Fred Clark, Staff Assistant
Rick Kirchhoff, Minority Consultant
Kathy Hughes, Staff Assistant

2

Witnesses:

Present to respond to Members questions:

1. Mr. Dallas Smith, Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, USDA
   Accompanied by: Ms. Gypsy Banks, Agricultural Economist, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, USDA
   Mr. Bruce Starnes, Chief, Peanut Operations Branch, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, USDA

U.S. GOVERNMENT PRINTING OFFICE 1985 46-201 (o-n)

Tuesday, March 18, 1986
Tobacco and Peanuts Subcommittee
Business Meeting
Peanut section of the Food Security
  Act of 1985; forthcoming peanut
  regulations; Gramm-Rudman-Hollings;
  peanut poundage quota calculations
  for 1986; additional peanuts contracted for export; distribution of
  additional quota

Chairman Rose called the meeting to order for the purpose of considering a number of peanut issues, as follows: Peanut section of the Food Security Act of 1985; forthcoming peanut regulations and date of publication in the Federal Register; effect of Gramm-Rudman-Hollings on the peanut price support program; methodologies used in calculating the peanut poundage quota for 1986; additional peanuts contracted for export; and distribution of additional quota of peanuts.

The Chairman announced that he had invited a USDA representative to be present to discuss the issues with the Subcommittee. The Subcommittee then discussed the above-cited issues with the Administration representative as noted on page 2 of these minutes. The Chairman and the Members of the Subcommittee wanted the record to emphasize that they felt that the peanut program should be operated at no cost and would reiterate their position to Secretary of Agriculture Richard E. Lyng. Chairman Rose also emphasized that the bond or security posted under sec. 407(p)(3) should not be set at unreasonable levels because it might impact unreasonably on certain shellers.

At 10:30 a.m., the meeting was adjourned subject to call of the chair.

Kathy Hughes
Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, March 18, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing - a.m.

met at 10:05 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Commodity Futures Trading Commission

The following Members were present:

Mr. Jones (Tenn.)
Mr. Weaver
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. de la Garza
Mr. ex officio
Mr. Thomas
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Jeffords
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. English
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Hon. Susan M. Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.

   Acc. by: Hon. Kalo Hineman, Commissioner
   Hon. Fowler C. West, Commissioner
   Hon. Robert R. Davis, Commissioner

Tuesday, March 18, 1986
Conservation, Credit, and Rural
  Development Subcommittee
Public Hearing - a.m.
Reauthorization of Commodity
  Futures Trading Commission

Chairman Ed Jones (Tenn.) called the meeting to order for the purpose of beginning its consideration of the reauthorization of the Commodity Futures Trading Commission. In addition to the Chairman's opening remarks, opening comments were made by Messrs. Coleman, Glickman, Gunderson, de la Garza, Evans (Iowa), Morrison, and English.

The Chairman of the Commodity Futures Trading Commission was recognized for her presentation of the Agency's views and proposals concerning reauthorization. Following her prepared statement, the Chairman of the Commission was questioned by the Members of the Subcommittee.

During his comments, Mr. de la Garza, Chairman of the full Committee, asked the Subcommittee to continue its oversight of the CFTC.

Mr. Stenholm asked unanimous consent to submit additional questions to the CFTC in writing and there was no objection.

During the proceedings Messrs. Glickman and Daschle shared chairing duties. At 12:10 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to hear additionally scheduled witnesses. The Commission representatives were asked to return in order to respond to any further questions.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, March 18, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing - p.m.

met at 2:05 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Commodity Futures Trading Commission

The following Members were present:

Members Also Present:

Mr.	Jones (Tenn.)	Mr.	Coleman	Mr.	Smith (Iowa)
Mr.	Glickman	Mr.	Jeffords	Mr.	
Mr.	Daschle	Mr.	Gunderson	Mr.	
Mr.	Evans (Ill.)	Mr.	Evans (Iowa)	Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:

Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant

Witnesses:

Panel 1

Mr. Robert K. Wilmouth, President, National Futures Association, Chicago, Illinois

Mr. John F. Sandner, Chairman of the Board, Chicago Mercantile Exchange
Acc. by: Mr. Leo Melamed, Chairman of the Executive Committee and Special Counsel
Mr. William J. Brodsky, President and Chief Executive Officer

Mr. Alan J. Brody, President, Commodity Exchange, Inc., New York, New York

Mr. John M. Damgard, President, Futures Industry Association, Washington, D.C.
Acc. by: Mr. Jack Lehman, Senior Executive Vice President, Shearson Lehman Bros.

Panel 2

Mr. Gary L. Seevers, Vice President, Goldman, Sachs & Company, New York, New York

Mr. Theodore "Ted" Thomte, President, National Association of Futures Trading Advisors, Chicago, Illinois

Mr. James A. Layton, President, Clayton Brokerage Company, St. Louis, Missouri

Mr. Thomas A. Russo, Attorney, Cadwalader, Wickersham, & Taft, New York, New York

Tuesday, March 18, 1986
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing - p.m.
Reauthorization of Commodity
Futures Trading Commission

Chairman Jones (Tenn.) called the meeting to order for the purpose of continuing to review the reauthorization of the Commodity Futures Trading Commission. The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee. In addition, Hon. Susan M. Phillips, Chairman, Commodity Futures Trading Commission, (see minutes of a.m. meeting) was asked to return to the witness table to comment on certain statements and charges of the exchange witnesses.

Chairman Jones advised that all Members would have an opportunity to submit questions in writing to any of the witnesses since the press of floor business had kept Members from returning to the hearing.

During the proceedings two recesses were taken at 2:40 p.m. and 3:25 p.m. to enable Members to respond to recorded votes on the House Floor. At 4:25 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Wednesday, March 19, to receive additional testimony on the reauthorization of the CFTC.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 19, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing - a.m.

met at 10:00 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Commodity Futures Trading Commission

The following Members were present:				Members Also Present:	
Mr.	Jones (Tenn.)	Mr.	Coleman	Mr.	Emerson
Mr.	Weaver	Mr.	Gunderson	Mr.	
Mr.	Glickman	Mr.	Evans (Iowa)	Mr.	
Mr.	Daschle	Mr.		Mr.	
Mr.	Stenholm	Mr.		Mr.	
Mr.	Tallon	Mr.		Mr.	
Mr.	Thomas	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Susan Adkins, Minority Consultant
Robert A. Cashdollar, Subcommittee Staff Director
Fred Clark, Staff Assistant
James W. Johnson, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda L. Temple, Clerk

Witnesses:

1. Panel

Mr. John F. Gilmore, Chairman, Chicago Board of Trade, Chicago, Illinois
Acc. by: Mr. Thomas Donovan, President and Chief Executive Officer, CBOT

Mr. Warren W. Lebeck, National Grain Trade Council, Washington, D.C.

Mr. Philip A. Feigin, Chairman, Commodities Committee, North American Securities Administrators Association, and Assistant Securities Commissioner, Colorado Division of Securities, Denver, Colorado

Mr. John D. Brookmeyer, Jr., Vice President, The Prudential Insurance Company of America, Newark, New Jersey, in behalf of the Prudential Insurance Company of America, Metropolitan Life Insurance Company, and the Equitable Life Assurance Society of the United States
Acc. by: Ms. Marilyn G. Field, Assistant General Counsel

2. Panel

Mr. Louis E. Carabini, President, Monex International Ltd., Newport Beach, California

Mr. Harvey Kochen, Vice President, International Precious Metals Corporation, Fort Lauderdale, Florida

Wednesday, March 19, 1986
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing - a.m.
Review the reauthorization of the
Commodity Futures Trading
Commission

Chairman Jones (Tenn.) called the meeting to order for the purpose of continuing to review the reauthorization of the Commodity Futures Trading Commission.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Without objection Members were given permission to submit questions to the witnesses for written responses.

During the proceedings one recess was taken at 10:05 a.m. to enable Members to respond to a recorded vote on the House Floor. At 12:05 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to continue receiving testimony from other scheduled witnesses.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 19, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing - p.m.

, met at 2:00 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Commodity Futures Trading Commission

The following Members were present:

Mr. Jones (Tenn.)
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Evans (Iowa)
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Staff Present:
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Susan Adkins, Minority Consultant
Robert A. Cashdollar, Subcommittee Staff Director
James W. Johnson, Staff Assistant
Glenda L. Temple, Clerk

Witnesses:

Panel

Mr. Steven M. Wilson, Commodity Consultant, Evergreen, Colorado

Ms. Brooksley Born, Attorney, Arnold and Porter, Washington, D.C. on behalf of the London Commodity Exchange Company, Ltd., the Metal Market and Exchange Company, Ltd., the London International Financial Futures Exchange, Ltd., the Grain and Feed Trade Association, and International Commodities Clearing House, Ltd.

Mr. John P. Doherty, Executive Vice President and Chief Executive Officer, Illinois Cooperative Futures Company, Chicago, Illinois

Mr. Merlyn Lokensgard, President, Minnesota Farm Bureau Federation representing the American Farm Bureau Federation, Washington, D.C.

Mr. Reggie Wyckoff of Genoa, Colorado, Chairman, Marketing Committee, National Association of Wheat Growers

Mr. Steven Dreyer, Ohrenstein and Brown, New York, New York

Statement Submitted for the Record

Mr. Steven F. Selig, Chairman, Committee on Commodities Regulation, Bar Association of the City of New York

Wednesday, March 19, 1986
Conservation, Credit, and Rural
  Development Subcommittee
Public Hearing - p.m.
Review the reauthorization of the
  Commodity Futures Trading
  Commission

Chairman Jones (Tenn.) called the meeting to order for the purpose of continuing to receive testimony on the reauthorization of the Commodity Futures Trading Commission.

The scheduled witnesses were asked to come to the witness table en bloc and were then recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee. One witness was unable to remain for an afternoon session and asked that his statement be submitted for the record.

At 3:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 19, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing - a.m.

met at 9:30 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

The following Members were present:		Members Also Present:
Mr. Bedell	Mr. Roberts	Mr. Ray
Mr. Staggers	Mr. Morrison	Mr.
Mr. Panetta	Mr. Gunderson	Mr.
Mr. Penny	Mr. Evans (Iowa)	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Nick Ashmore, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Francie Monaghan, Clerk

Witnesses:

1. Panel

Dr. Jack Early, President, National Agricultural Chemicals Association (NACA), Washington, D.C.

Mr. Carl J. Kensil, President of the Agricultural Division of CIBA-GEIGY Corporation, Greensboro, North Carolina

Mr. Larry D. Brady, Manager, Agricultural Chemicals Group, FMC Corporation, Philadelphia, Pennsylvania

Mr. W. Scott Ferguson, Vice President/General Counsel, National Agricultural Chemicals Association (NACA), Washington, D.C.

2. Panel

Ms. Nancy Drabble, Director, Public Citizen's Congress Watch, Washington, D.C.

Mr. Albert H. Meyerhoff, Senior Attorney, Natural Resources Defense Council, Inc., San Francisco, California

Ms. Ellen Haas, Executive Director, Public Voice for Food and Health Policy, Washington, D.C.

3. Panel

Mr. Robert M. Russell, Vice President, Government Relations, Orkin Pest Control, Atlanta, Georgia

Mr. Harvey S. Gold, Executive Vice President, National Pest Control Association, Dunn Loring, Virginia
Acc. by: Mr. Jack Grimes, President, National Pest Control Association, Dunn Loring, Virginia

Mr. Ralph Engel, President, Chemical Specialties Manufacturers Association (CSMA), Washington, D.C.

Acc. by: Mr. Warren Stickle, Director, Legislative Affairs, CSMA, Washington, D.C.

Wednesday, March 19, 1986
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing - a.m.
Review of the reauthorization of the
Federal Insecticide, Fungicide,
and Rodenticide Act (FIFRA)

Chairman Bedell called the meeting to order and began hearing testimony on legislation to reauthorize and amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The witnesses listed on page 2 of these Minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made by Representative Richard Ray of Georgia: Mr. Russell of Orkin Pest Control and Mr. Gold of National Pest Control Association.

During the proceedings one recess was taken at 10:05 a.m. to enable Members to respond to a recorded vote on the House Floor. At 12:35 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to continue receiving testimony from other scheduled witnesses.

Francie Monaghan
Francie Monaghan

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 19, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing - p.m.

met at 2:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA)

The following Members were present:

Mr. Bedell
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Roberts
Mr. Morrison
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
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Mr.
Mr.
Mr.

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Mr.
Mr.
Mr.
Mr.

Staff Present:

John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Francie Monaghan, Clerk

Witnesses:

1. Panel

Mr. Mark A. Maslyn, Assistant Director, National Affairs Division, American Farm Bureau Federation, Washington, D.C.

Mr. Jim Miller, Vice President, National Association of Wheat Growers, Washington, D.C.

Mr. John S. Barr, III, Cotton Producer from Oak Ridge, Louisiana and Immediate Past Board Chairman of the National Cotton Council, testifying on behalf of the National Cotton Council, Washington, D.C.

Mr. Roger J. Stroh, President, United Fresh Fruit and Vegetable Association, Alexandria, Virginia

Mr. Ron D. White, Consultant, Former Assistant Commissioner, Regulatory Division, Texas Department of Agriculture, testifying on behalf of the Texas Commissioner of Agriculture, Austin, Texas

2. Panel

Mr. William A. Butler, Vice President for Government Relations and Counsel, National Audubon Society, Washington, D.C.
Acc. by: Ms. Maureen K. Hinkle, Director, Agricultural Policy, National Audubon Society, Washington, D.C.

Mr. Ralph Lightstone, Attorney, testifying on behalf of the California Rural Legal Assistance Foundation, Sacramento, California

Mr. David Mallino, Legislative Director, Industrial Union Department, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Statement Submitted for the Record:

Mr. James B. Grant, Executive Secretary, National Association of State Departments of Agriculture (NASDA)

Wednesday, March 19, 1986
Department Operations, Research, and
  Foreign Agriculture Subcommittee
Public Hearing - p.m.
Review of the reauthorization of the
  Federal Insecticide, Fungicide,
  and Rodenticide Act (FIFRA)

Chairman Bedell called the meeting to order for the purpose of continuing to receive testimony on the legislation to reauthorize and amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The scheduled witnesses were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The meeting was adjourned at 4:30 p.m., subject to the call of the Chair.

Francie Monaghan
Francie Monaghan

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 20, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture
Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
H.R. 2482, H.R. 4364, and H.R. 4440

The following Members were present:		Members Also Present:
Mr. Bedell	Mr. Roberts	Mr. Olin
Mr. Brown	Mr. Morrison	Mr.
Mr.	Mr. Gunderson	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Nick Ashmore, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

1. Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C.
   Acc. by: Mr. Steven Schatzow, Director, Office of Pesticide Programs, EPA

2. Dr. James W. Glosser, Associate Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C.

3. Panel
   Mrs. Russell M. Arundel, Toxics Chairman, National Affairs and Legislation Committee, Garden Club of America, New York, New York

   Mr. Jay Feldman, National Coordinator, National Coalition Against the Misuse of Pesticides, Washington, D.C.

   Ms. Michelle Slowey, 3301 Dogwood Drive, Portsmouth, Virginia

   Mr. Stephen L. Tvedten, Pesticide Applicator, President, Stroz Services, Inc., Marne, Michigan

   Mr. Lorens P. Tronet, Executive Director, American Defender Network, Crystal Lake, Illinois

Thursday, March 20, 1986
Department Operations, Research, and
Foreign Agriculture Subcommittee
Review the reauthorization of the
Federal Insecticide, Fungicide,
and Rodenticide Act (FIFRA)
H.R. 2482, H.R. 4364, H.R. 4440

Chairman Bedell called the meeting to order for the purpose of continuing to receive testimony on the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act. The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 11:05 a.m. to enable Members to respond to a recorded vote on the House floor. At 12:00 noon the meeting was adjourned to reconvene at 2:00 p.m. to receive additional testimony on the above-captioned subject.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 20, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing -- p.m.

met at 2:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

H.R. 2482, H.R. 4364, and H.R. 4440

The following Members were present:

Mr. Bedell
Mr.
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Mr. Roberts
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Staff Present
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Nick Ashmore, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Panel

Mr. Edgar W. Duskin, Executive Vice President, Southern Agricultural Chemicals Association, Dawson, Georgia

Mr. James Champion, President, Pesticide Producers Association, Washington, D.C.
and
Mr. George E. Miller, Chairman, Legislative Committee, Pesticide Producers Association, Washington, D.C.
Acc. by: Mr. Graham Purcell, Counsel
Mr. Robert Bor, Counsel

Mr. Harold Himmelman, Counsel, Committee for Research and Development of Agricultural Chemicals, Washington, D.C.

Mr. Kenneth W. Weinstein, Counsel, Committee for Research and Development of Agricultural Chemicals, Washington, D.C.

Dr. Henry G. Grabowski, Professor, Duke University, Durham, North Carolina, on behalf of Committee for Research and Development of Agricultural Chemicals

2. Panel

Mr. William C. Balek, Association Attorney, International Sanitary Supply Association, Inc., Chicago, Illinois

Dr. Stephen P. Kaufman, Medical Research Modernization Committee, New York, New York

Present from the Environmental Protection Agency to respond to Member's questions:

Mr. Ed Gray, Office of General Counsel, EPA

Thursday, March 20, 1986
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing - p.m.
Review the reauthorization of the
Federal Insecticide, Fungicide,
and Rodenticide Act (FIFRA)
H.R. 2482, H.R. 4364, H.R. 4440

Chairman Bedell called the meeting to order to continue to receive testimony on the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act. The witnesses listed on page 2 of these minutes were recognized for their prepared statements, and following their remarks were questioned by the Members of the Subcommittee. The Chairman asked the Environmental Protection Agency to appear at the witnesses table to respond to questions.

During the proceedings recesses were taken at 2:30 p.m. and 3:05 p.m. to enable Members to respond to recorded votes on the House floor. At 4:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

MINUTES

Date March 26, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Meeting: Public Hearing

Subject: Review of economic status of livestock, dairy, and poultry producers and impact of the milk production termination program

Bill Nos.

The Livestock, Dairy, and Poultry (Sub) Committee

met in Open Session at 10:00 a.m. o'clock, in Room McCormick Center for Human Services, Bloomsburg University Bloomsburg, Pennsylvania

The following Members were present:

Mr. Coelho
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present

Mr. Kanjorski
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Kim Schnoor

Witnesses:

1. Panel

Mr. Albert Hack, Guernsey Association, Berwick, Pennsylvania
Mr. Arden W. Tewksbury, Farmers Union, Harrisburg, Pennsylvania
Ms. Barbara Warburton, Pennsylvania Farmers Association, New Albany, Pennsylvania

2. Panel

Mr. Arthur McMahon, Dairy Farmer, Dushore, Pennsylvania
Mr. James M. Aurand, Pennsylvania State Grange, Lewistown, Pennsylvania
Mr. William J. Dagostin, Will-o-Bett Farm, Berwick, Pennsylvania

3. Panel

Mr. Charles Chapman, Pennsylvania Angus Association and Pennsylvania Cattlemen's Association, Benton, Pennsylvania
Mr. Lloyd E. George, Beef Farmer, Catawissa, Pennsylvania
Mr. Richard C. Miller, Farm Owner and Operator, Catawissa, Pennsylvania

4. Open Microphone

Mr. Edwin R. Kremer, Dairy Farmer, Montour, Pennsylvania
Mr. Richard Breisch, Dairy Farmer, Bloomsburg, Pennsylvania
Mr. Allen J. Deiter, Pennsylvania Farmers Union, Northumberland, Pennsylvania
Mr. Richard Kreibel, Dairy Farmer, Benton, Pennsylvania

Statements Filed:

Wednesday, March 26, 1986
Subcommittee on Livestock,
Dairy, and Poultry
Public Field Hearing - McCormick
Center for Human Services -
Bloomsburg University,
Bloomsburg, Pennsylvania
Review of economic status of
livestock, dairy, and poultry
producers and impact of the
milk production termination
program

Chairman Coelho called the meeting to order at 10:00 a.m. Dr. Harry Ausprich, President of Bloomsburg University, welcomed the Subcommittee to the University. The witnesses listed on page 2 of these minutes were then recognized for presentation of their statements. Upon completion of their formal statements, each witness was questioned by the Members present and by Pennsylvania Representative Ted Stuban, who joined the Members on the rostrum.

At 12:30 p.m. the Chairman adjourned the meeting subject to the call of the chair.

Kim Schnoor
Kim Schnoor

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date April 9, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of receiving testimony on H.R. 3868, the Farm Credit Partnership Act, and the credit provisions of H.R. 4267 (Titles II and III)

The following Members were present:				Members Also Present:	
Mr.	Jones (Tenn.)	Mr.	Coleman	Mr.	Panetta
Mr.	Glickman	Mr.	Morrison	Mr.	Bedell
Mr.	Daschle	Mr.	Gunderson	Mr.	Dorgan
Mr.	Stenholm	Mr.	Evans (Iowa)	Mr.	Lightfoot
Mr.	Tallon	Mr.	Franklin	Mr.	English
Mr.	Thomas	Mr.		Mr.	
Mr.	Stallings	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:
Phil Fraas, Counsel
John Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Cris Aldrete, Special Counsel
Mark Dungan, Minority Associate Counsel
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director
Fred Clark, Staff Assistant
Bernie Brenner, Press Secretary

Witnesses:

1. Panel:
   Mr. Neal Conover, Chairman, First National Bank, Creston, Iowa, representing the American Bankers Association
   Mr. John C. Dean, Chairman, Agriculture-Rural Committee, Independent Bankers Association of America, and President, Glenwood State Bank, Glenwood, Iowa
   Mr. Douglas D. Sims, President and Chief Operating Officer, Farm Credit Banks of St. Louis, and member of the Farm Credit Council Legislative Committee, Washington, D.C.
   Mr. Leslie G. Horsager, Vice President, Prudential Insurance Company, Newark, New Jersey, on behalf of the American Council of Life Insurance, Washington, D.C.

2. Panel:
   Mr. Dean Kleckner, President, American Farm Bureau Federation, Rudd, Iowa
   Mr. Charles L. Frazier, Director of Washington Office, National Farmers Organization, Washington, D.C.
   Mr. David Senter, National Director, American Agriculture Movement, Washington, D.C.
   Mr. Cal Coulter of Bridgeport, Nebraska, representing the National Cattlemen's Association, National Association of Wheat Growers, National Corn Growers Association, National Cotton Council of America, National Grange, and National Pork Producers Council

3. Panel:
   Mr. Paul R. Sacia, Assistant Director of Legislative Services, National Farmers Union, Washington, D.C.
   Mr. Cecil W. Huff, Co-Chair, National Farmers Fair Credit Committee, Ava, Missouri
   Dr. Barry M. Casper, Director, Crisis in Agriculture Project, Carleton College, Northfield, Minnesota
   Dr. Robert W. Jolly, Professor of Economics, Iowa State University, Ames, Iowa
   Ms. Maureen S. Steinbruner, Executive Vice President, Center for National Policy, Washington, D.C.

4. Hon. Byron Dorgan, Member of Congress from North Dakota

5. Hon. Jim Lightfoot, Member of Congress from Iowa

-- MORE --

April 9, 1986
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
H.R. 3868, Farm Credit Partnership
Act and credit provisions of
H.R. 4267 (Titles II and III)

6. Panel:
   Mr. John F. Downey, Chief National Bank Examiner, Office of the Comptroller of the Currency, Department of the Treasury, Washington, D.C.
   Mr. William Taylor, Director, Division of Bank Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C.
   Mr. A. David Meadows, Associate Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, D.C.
   Mr. Vance L. Clark, Administrator, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C.

7. Mr. Norman Eickhoff, farmer, Carthage, Indiana

Statements Submitted for the Record:

1. Hon. Leon Panetta, Member of Congress from California

2. Hon. Richard Stallings, Member of Congress from Idaho

Chairman Jones (Tenn.) called the meeting to order for the purpose of receiving testimony on H.R. 3868, the Farm Credit Partnership Act and the credit provisions of H.R. 4267 (Titles II and III). Brief opening remarks were made by Messrs. Jones (Tenn.), Coleman, Gunderson, Franklin, de la Garza, Panetta, Thomas and Bedell.

The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Without objection the Subcommittee Members were given permission to submit questions in writing to any of the witnesses at the hearing.

During the proceedings recesses were taken at 10:05 a.m. and 11:40 a.m. to enable Members to respond to recorded votes on the House Floor. Chairing responsibilities were shared by Mr. Jones (Tenn.), Mr. Stenholm, and Mr. Glickman. At 4:25 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, April 10, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing USDA's implementation of the Export Enhancement Program and the trade provisions of the Food Security Act of 1985

The following Members were present:

Mr. Bedell
Mr. Penny
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Roberts
Mr. Morrison
Mr. Evans
Mr. Combest
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Dorgan
Mr. Siljander
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Anita R. Brown, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Charles Hilty, Minority Staff Director
Kathy Hughes, Staff Assistant
Gary R. Mitchell, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Diane Sligar, Staff Assistant

Witnesses:

1. Hon. Byron L. Dorgan, Member of Congress from North Dakota

2. Hon. Mark Siljander, Member of Congress from Michigan

3. Mr. Allen I. Mendelowitz, Associate Director, Trade, Energy, and Finance Group, National Security and International Affairs Division, General Accounting Office, Washington, D.C.

   Acc. by: Mr. Philip J. Thomas, Group Director, Trade, Energy, and Finance Group
   Ms. Leah Dymek, Evaluator, Trade, Energy, and Finance Group
   Ms. Barbara Schmitt, Project Manager, Trade, Energy, and Finance Group
   Mr. Glenn Furbish, Evaluator, Trade, Energy, and Finance Group

4. Mr. Tom Kay, Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. William Davis, Assistant Administrator for Marketing and Commodity Programs, Foreign Agricultural Service
   Mr. Melvin Sims, Associate Administrator and General Sales Manager, Foreign Agricultural Service
   Ms. Mary Chambliss, Deputy Assistant Administrator for Analysis, Export Credits Program, Foreign Agricultural Service
   Mr. John Williams, Budget Director, Foreign Agricultural Service

5. Hon. Orville Freeman, President, Agricultural Council of America, Washington, D.C.

6. Panel:
   Mr. Paul Green, Vice President, Millers' National Federation, Washington, D.C.
   Mr. George Fluegal, President, American Soybean Association, Washington, D.C.
   Mr. Ken Bader, Immediate Past Chairman, U.S. Agricultural Export Development Council, Washington, D.C.
   Mr. Steve Cavanaugh, National Council of Farmer Cooperatives, Washington, D.C.
   Ms. Peggy Sheehan, Vice President, Food Policy and Marketing, National Cooperative Business Association, and Co-Director for Food Aid Policy and Programs, Washington, D.C.

Statements Submitted for the Record:

1. Idaho Wheat Commission and Idaho State Wheat Growers Association

Thursday, April 10, 1986
Subcommittee on Department Operations, Research, and Foreign Agriculture
Public Hearing
Review USDA's implementation of the Export Enhancement Program and the trade provisions of the Food Security Act of 1985

Chairman Bedell called the meeting to order for the purpose of receiving testimony on a number of trade issues, as follows: export enhancement program; targeting price program; export subsidies; surpluses in world markets; GSM-102 credit guarantees; effective GATT regulations; negotiations with the European Economic Community; tariff concessions; pricing of United States and European wheat; P.L. 480 program; section 416 program; and quality of export grain.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the above-cited subjects. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Chairman Bedell requested that the representative of the National Cooperative Business Association furnish information on the Administration's noncompliance with certain regulations on section 416.

During the proceedings three recesses were taken at 10:40 a.m., 11:10 a.m., and 12:00 noon to enable Members to respond to recorded votes on the House floor. Chairing responsibilities were shared by Mr. Penny. Chairman Bedell adjourned the meeting at 3:30 p.m., subject to the call of the Chair.

Kathy Hughes
Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, April 10, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing

met at 10:05 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the provisions of the Food Security Act relating to casein and milk protein product imports; introduction of new dairy producing business facilities into the U.S. by foreign-based corporations; USDA's implementation of the orderly marketing provisions of the Food Security Act of 1985; and USDA's requirement for cheek branding in the dairy termination program.

The following Members were present:

Mr. Coelho, Chrm.
Mr. Volkmer
Mr. Olin
Mr. Penny
Mr. Rose
Mr. Stenholm
Mr. Daschle
Mr. Bedell
Mr. English
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.

Mr. Stangeland
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Thomas
Mr. Combest
Mr. Horton
Mr. Boehlert
Mr. Roth
Mr. Watkins
Mr. Petri
Mr. Rowland
Mrs. Smith
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Cristobal P. Aldrete, Special Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
William E. O'Conner, Jr., Assistant Minority Staff Director
Courtney Pastrick, Staff Assistant
Joan Teague Rose, Staff Consultant
Kim Schnoor, Subcommittee Staff Director
Glenda Temple, Clerk
Jeffrey Weiss, Staff Assistant
Paulette Zakrzeski, Minority Consultant

Witnesses:

1. Hon. Sherwood L. Boehlert, Member of Congress from New York
2. Hon. Toby Roth, Member of Congress from Wisconsin
3. Hon. Wes Watkins, Member of Congress from Oklahoma
4. Hon. Thomas E. Petri, Member of Congress from Wisconsin
5. Hon. J. Roy Rowland, Member of Congress from Georgia
6. Hon. Virginia Smith, Member of Congress from Nebraska
7. Hon. Richard Goldberg, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Charlie Shaw, Leader, Dairy and Sweeteners Group, Commodity Analysis Division, ASCS
   Mr. Tom VanGarlem, Assistant Deputy Administrator for State and County Operations, ASCS
   Mr. John Riesz, Director, Dairy, Livestock, and Poultry Division, FAS
   Mr. Paul Fuller, Director, Livestock and Seed Division, AMS
   Mr. Ken Clayton, Director, National Economics Division, ERS
   Mr. Tom Conway, Associate General Counsel, USDA
   Mr. Terry Jackson, Office of General Counsel, USDA
8. Hon. Frank Horton, Member of Congress from New York
9. Panel:
   Mr. Irvin J. Elkin, President, Associated Milk Producers, Inc., San Antonio, Texas
   Mr. Stewart G. Huber, President, Farmers Union Milk Marketing Cooperative, Madison, Wisconsin, representing the National Farmers Union
   Mr. James C. Barr, Chief Executive Officer, National Milk Producers Federation, Arlington, Virginia
   Acc. by: Mr. Peter Vitaliano, Director of Economics National Milk Producers Federation
   Mr. Benjamin F. Yale, Assistant General Counsel for Dairy, National Farmers Organization, Minster, Ohio
   Mr. Harry G. Shupe, Counsel, National Independent Dairy Foods Association, Washington, D.C.

--Continued--

Thursday, April 10, 1986
Livestock, Dairy, and Poultry
  Subcommittee
Public Hearing
Casein and milk protein product
  imports; new dairy producing
  business facilities in U.S. by
  foreign-based corporations; USDA's
  implementation of orderly marketin
  provisions; USDA's requirement for
  cheek branding

Witnesses Continued:

10. Panel:
    Mr. Steve MacArthur, Director, Government Relations Carnation Company
    Mr. Harold C. Steinke, Vice President, Purchasing and Industry Relations, Grocery Products Division, Borden, Inc.
    Mr. Gary Dilweg, Director of Government Affairs, L.D. Schreiber Cheese Company, Greenbay, Wisconsin
    Mr. Vince Zehren, Vice President, L.D. Schreiber Cheese Company
        Acc. by: Mr. Max N. Berry, Counsel, Committee to Assure the Availability of Casein
    Mr. Robert Blanton, Vice President, Management Services, Fisher Cheese Company

11. Panel:
    Mr. Charlie Kemp, farmer, Camilla, Georgia
    Mr. Gene Marks, President, Georgia Milk Producers, Mansfield, Georgia
    Mr. Michael Emery, farmer and member, National Farmers Organization, Millen, Georgia

12. Panel:
    Mr. Don Butler, National Cattlemen's Association, Washington, D.C.
        Acc. by: Mr. Myron Openshaw, Chairman, Agricultural Policy Commission, National Cattlemen's Association
    Mr. Mike Bowles, President, Texas Cattle Feeders Association
    Mr. Jack Frick, President, Kansas Livestock Association, Topeka, Kansas
    Mr. Ron Kahle of Nebraska, President, National Pork Producers Council

13. Panel:
    Dr. Ralph C. Abraham, DVM, Rayville, Louisiana
    Mr. Floyd Fumasi, dairy farmer, Galt, California
    Ms. Martha C. Armstrong, Massachusetts Society for the Prevention of Cruelty to Animals, Framingham Center, Massachusetts

Thursday, April 10, 1986
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing
Casein and milk protein product
imports; new dairy producing
business facilities in U.S. by
foreign-based corporations; USDA's
implementation of orderly marketin
provisions; USDA's requirement for
cheek branding

Statements Submitted for the Record:

1. Hon. Richard Stallings, Member of Congress from Idaho
2. Mr. Robert L. Nash, President, Georgia Farm Bureau Federation, Macon, Georgia
3. Ms. Ellen Haas, Public Voice, Washington, D.C.
4. Mr. James A. Prescott, Jr., Kinnett Dairies, Inc., Columbus, Georgia
5. Mr. John C. Datt, Executive Director, Washington office, American Farm Bureau Federation, Washington, D.C.
6. Mr. Walter E. Baker, farmer, Pulaski County, Hawkinsville, Georgia
7. Mr. William E. Shannon, Executive Vice President, Cordelle Banking Company, Cordelle, Georgia

Mr. Olin called the meeting to order and read Chairman Coelho's opening statement on the purpose of the hearing. Mr. Gunderson made opening remarks on behalf of the Minority. Opening remarks were made by Mr. Stangeland and Mr. Thomas.

Chairman Coelho recognized the witnesses listed on pages 2 and 3 of these minutes for their prepared testimony. Following their presentations the witnesses were questioned by the Members of the Subcommittee.

As requested by Mr. English, the Subcommittee, without objection, requested the U.S. Department of Agriculture to determine whether or not an emergency situation exists due to the announcements made by the Department over the past week, pursuant to provisions of law for declaration of an emergency.

Mr. English further requested that the cattle organizations communicate the seriousness of the current situation to the Department to assist in the declaration of an emergency.

Thursday, April 10, 1986
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing
Casein and milk protein product
imports; new dairy producing
business facilities in U.S. by
foreign-based corporations; USDA's
implementation of orderly marketing
provisions; USDA's requirement for
cheek branding

Mr. Daschle asked if it would be in order to consider a resolution to impose limitations on the level of meat imports into the United States during the milk production termination program. Chairman Coelho advised that the subject had not been noted to the Members but that action would be scheduled in the near future.

Chairman Coelho asked the USDA representatives to submit a list of people who have made bids which were accepted and to include in the list who they ship to for processing. He also asked that the Department ascertain if the processors sell surplus commodities to the USDA.

Mr. Smith requested the Department to submit a report on red meat projections. The Chairman asked that the Department submit the projections monthly begining May 1 until further notice and there was no objection.

Without objection Members were given permission to submit additional questions on casein for written responses.

During the proceedings, recesses were taken at 10:40 a.m. and 11:05 a.m. for a series of votes on the House floor. At 5:40 p.m. the meeting was adjourned, to reconvene on Monday, April 14, to receive additional testiomny on the subjects under discussion and to consider the Daschle resolution to impose limitations on the level of meat imports into the U.S. during the milk production termination program.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, April 14, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing and Business Meeting

met at 2:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of receiving additional testimony on provisions of the Food Security Act of 1985 relating to casein and milk protein product imports; introduction of new dairy producing business facilities into the U.S. by foreign-based corporations; USDA's implementation of the orderly marketing provisions of the Food Security Act; and USDA's requirement for cheek branding in the dairy termination program; and to consider H.Res. 418 by Mr. Daschle to impose limitations on the level of meat imports into the U.S. during the milk production termination program.

The following Members were present:

Mr. Coelho, Chrm.
Mr. Volkmer
Mr. Penny
Mr. Rose
Mr. Stenholm
Mr. Daschle
Mr. Jones (Tenn.)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hopkins
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Combest
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Cristobal P. Aldrete, Special Counsel
Bernard Brenner, Press Secretary
Carol Ann Dubard, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director
Courtney Pastrick, Staff Assistant
Kim Schnoor, Subcommittee Staff Director
Glenda L. Temple, Clerk
Jeffrey Weiss, Staff Assistant
Paulette Zakrzeski, Minority Consultant

Witnesses:

1. Mr. Edward J. Farrell, New Zealand Milk Producers, Inc.
2. Ms. Barbara Pequet, Government Liaison, Society for the Prevention of Cruelty to Animals, on behalf of Dr. Ann Squire, Vice President for Education and Scientific Advisor, Society for the Prevention of Cruelty to Animals, New York, New York
3. Dr. Michael W. Fox, Scientific Director, Humane Society of the United States, Washington, D.C.

Monday, April 14, 1986
Subcommittee on Livestock, Dairy,
and Poultry
Public Hearing and Business Meeting
Casein and milk protein product imports; new dairy producing business facilities in the U.S. by foreign-based corporations; USDA's implementation of orderly marketin provisions; USDA's requirement for cheek branding; and H.Res. 418, a resolution to impose limitations on the level of meat imports into the U.S. during the milk productio termination program.

Action Taken:

-- Without objection Daschle technical amendments agreed to.

-- By voice vote H. Res. 418, as amended, ordered reported to the full Committee.

Chairman Coelho called the meeting to order and recognized the witnesses listed on page 2 of these minutes for their prepared testimony on the subjects cited above. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 2:40 p.m. the Subcommittee resolved itself into a business session for the purpose of considering H. Res. 418, a resolution expressing the sense of the House of Representatives that there is an economic depression in the beef and pork industries, resulting in part from excessive meat imports and from the administration of the milk production termination program, and that the President should alleviate such depression by imposing limitations on the levels of meats and meat products imported into the United States during the milk production termination program. (Copy attached.)

Mr. Daschle, the author of the resolution, was recognized to explain the provisions of the resolution. Mr. Daschle advised that in consultation with Mr. Smith he would like to make some technical changes as reflected in the attached amendment.

Discussion occurred and without objection, the Daschle amendment was agreed to. By a voice vote H. Res. 418, as amended, was then ordered reported to the full Committee by a voice vote and in the presence of a quorum (10 Members present and voting).

At 2:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

(Original signature of Member)

99TH CONGRESS
2D SESSION

H. RES. 418

H.L.C.

Insert title here

Expressing the sense of the House of Representatives that there is an economic depression in the beef and pork industries, resulting in part from excessive meat imports and from the administration of the milk production termination program, and that the President should alleviate such depression by imposing limitations on the levels of meats and meat products imported into the United States during the milk production termination program.

IN THE HOUSE OF REPRESENTATIVES

______________, 19___

Insert sponsor' names here

Mr. DASCHLE submitted the following resolution; which was referred to the Committee on ____________________

(for himself, Mr. Coelho, Mr. English, Mr. Glickman, Mr. Penny, Mr. Williams, Mr. Morrison of Washington,

RESOLUTION

Whereas the beef industry in the United States, one of the largest segments of the agricultural economy, produces over $45,000,000,000 annually in beef and beef products for domestic and foreign consumption;

Whereas more beef is produced in the United States than in any other country in the world;

Whereas the pork industry in the United States is an integral component of the agricultural economy, generating over $3,200,000,000 annually in pork products for domestic and foreign consumption;

Whereas imports of meat subject to import quota laws have increased by 15 percent from 1984 to 1985, causing severe damage to the domestic pork and beef industries;

Whereas the quantity of meat imported into the United States during the first two months of 1986 exceeds by 27 percent the quantity of meat imported into the United States during the first two months of 1985;

Whereas the legislative history accompanying the Food Security Act of 1985 provides clear direction to the Secretary of Agriculture that the Congress intended the milk production termination program described in section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)) to be administered in an orderly fashion, without disruption to the domestic beef and pork industries;

Whereas the Secretary of Agriculture has administered the production termination program in a disruptive manner by allowing 65 percent of the total slaughter of dairy cattle to occur in the termination period consisting of April to August 1986;

Whereas the Secretary of Agriculture's delay in announcing the Government purchase of additional red meat required by section 104 of the Food Security Act of 1985 has negated the positive effect of this requirement, namely, reducing any market surplus of meat products; and

Whereas excessive meat imports and the administration of the milk production termination program have resulted in economic depression in the beef and pork industries, estimated to cost the industry over $25,000,000 weekly: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that--

(1) the Secretary of Agriculture should acknowledge the serious economic depression in the beef and pork industries, as well as the adverse impact of excessive meat imports and of the administration of the milk production termination program on the beef and pork industries in the United States;

(2) the Secretary of Agriculture should accelerate the rate, or increase the amount, of the Government meat purchases required by section 104 of the Food Security

Act of 1985; and

(3) the Secretary of Agriculture and the President should take immediate and comprehensive administrative steps to alleviate the economic depression in the beef and pork industries in the United States. Such steps should include--

(A) imposing import restrictions under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), sections 202 and 203 of the Trade Act of 1974 (19 U.S.C. 2252-2253), and any other provision of law to reduce to the maximum extent permitted by such provisions of law the amount of beef, pork, beef products, and pork products imported before September 1987 into the United States; and

(B) exercising more fully the authority contained in section 104 of the Food Security Act of 1985 to alleviate the depression in the prices paid for beef and pork resulting, in part, from the Secretary of Agriculture's administration of the milk production termination program carried out under section 201(d)(3) of the Agricultural Act of 1949.

Daschle Amd

~~production termination program in a disruptive manner by~~ ALLOWED ~~allowing~~ 65 percent of the total slaughter of dairy cattle to occur in the termination period consisting of April to August 1986;

Whereas the Secretary of Agriculture's delay in announcing the Government purchase of additional red meat required by section 104 of the Food Security Act of 1985 has ~~negated the~~ CREATED A TEMPORARY REDUCTION IN PRICE ~~positive effect of this requirement, namely, reducing any market surplus of meat products; and~~

Whereas excessive meat imports and the administration of the milk production termination program have resulted in economic depression in the beef and pork industries, estimated to cost the industry over $25,000,000 weekly: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that--

(1) the Secretary of Agriculture should acknowledge the serious economic depression in the beef and pork industries, as well as the adverse impact of excessive meat imports and of the administration of the milk production termination program on the beef and pork industries in the United States;

(2) the Secretary of Agriculture should accelerate DURING THE FIRST PERIOD the rate, or increase the amount, of the Government meat purchases required by section 104 of the Food Security

Act of 1985; and

(3) the Secretary of Agriculture and the President should take immediate and comprehensive administrative steps to alleviate the economic depression in the beef and pork industries in the United States. Such steps should include--

(A) imposing import restrictions under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), sections 202 and 203 of the Trade Act of 1974 (19 U.S.C. 2252-2253), ~~and~~ or any other provision of law to reduce to the maximum extent permitted by such provisions of law the amount of beef, pork, beef products, and pork products imported before September 1987 into the United States; and

(B) exercising more fully the authority contained in section 104 of the Food Security Act of 1985 to alleviate the depression in the prices paid for beef and pork resulting, in part, from the Secretary of Agriculture's administration of the milk production termination program carried out under section 201(d)(3) of the Agricultural Act of 1949.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 15, 1986

(~~Sub~~) Committee: Full

Public Hearing

met at 1:00 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of receiving testimony on agricultural provision proposals to omnibus trade legislation

The following Members were present:

Mr. de la Garza
Mr. Bedell
Mr. Huckaby
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Thomas
Mr. Penny
Mr. Stallings
Mr.
Mr.
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Mr.
Mr.

Mr. Madigan
Mr. Marlenee
Mr. Hopkins
Mr. Roberts
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Anita Brown, Staff Assistant
Carol Dubard, Staff Assistant
Tim Galvin, Subcommittee Staff Director
Gary Mitchell, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

1. Hon. Jim Lightfoot, Member of Congress from Iowa

2. Hon. Daniel G. Amstutz, Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

3. Mr. Allan I. Mendelowitz, Associate Director, Trade, Energy, and Finance Group, National Security and International Affairs Division, General Accounting Office, Washington, D.C.
   Acc. by: Mr. Phillip J. Thomas, Group Director,
   Trade, Energy, and Finance Group

4. Panel:
   Mr. Edward Andersen, National Commission on Agricultural Trade and Export Policy, Washington, D.C.
   Acc. by: Mr. Steve McCoy, Executive Director

   Mr. John W. Mixon, National Association of State Foresters, Washington, D.C.

   Mr. Bud Leuthold, President, National Association of Wheat Growers, Washington, D.C.

   Mr. Mike Wehler, Executive Committee, National Pork Producers Council, Plains, Wisconsin
   Acc. by: Mr. Mark Sandstrom, Counsel

5. Panel:
   Mr. Leonard Ballas, United Egg Association, Washington, D.C.

   Mr. George Uribe, Executive Vice President, West Mexico Vegetable Distributors Association, Nogales, Arizona
   Acc. by: Mr. Roy Lundstrom, Board Member, West Mexico
   Vegetable Distributors Association, Nogales, Arizona

   Mr. Eric Vaughn, President and Chief Executive Officer, Renewable Fuels Association, Washington, D.C.

Statements Submitted for the Record:

1. Idaho Wheat Commission and Idaho State Wheat Growers Association

2. Mr. Roger J. Stroh, President, United Fresh Fruit and Vegetable Association, 727 N. Washington Street, Alexandria, Virginia 22314

Tuesday, April 15, 1986
Full Committee
Public Hearing
Agricultural provision proposals to
omnibus trade legislation

Chairman de la Garza called the meeting to order and made opening comments on the need for the Committee to review agricultural provisions contained in omnibus trade legislation.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the subject. Following their presentations, the witnesses were questioned by the Members of the Committee.

Mr. Stallings submitted a statement for the record from the Idaho Wheat Commission and Idaho State Wheat Growers Association. The following special introduction was made: Mr. Mixon by Mr. Thomas. In addition, Chairman de la Garza introduced Dr. Kim who serves on the Agriculture Committee in the Korean Legislature.

During the proceedings one recess was taken at 3:40 p.m. to enable Members to respond to a recorded vote on the House Floor. Messrs. Daschle, Stenholm and Bedell assisted Mr. de la Garza in chairing the meeting.

At 4:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, April 16, 1986

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition Public Hearing

met at 9:45 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the President's fy 1987 budget proposals for the Food Stamp Program, the Temporary Emergency Food Assistance Program, the Commodity Supplemental Food Program, and related nutrition programs

The following Members were present:				Members Also Present:	
Mr.	Panetta, Chrm.	Mr.	Emerson	Mr.	Vento
Mr.	Staggers	Mr.		Mr.	Oberstar
Mr.	Olin	Mr.		Mr.	Rahall
Mr.	de la Garza	Mr.		Mr.	Morrison
Mr.	ex officio	Mr.		Mr.	Fuster
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Jim Rotherham, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant

Witnesses:

1. Panel:
   Hon. Bruce F. Vento, Member of Congress from Minnesota
   Hon. James L. Oberstar, Member of Congress from Minnesota
   Mr. Joe Samargia, Commissioner, Minnesota Department of Jobs and Training, St. Paul, Minnesota

2. Hon. Sid Morrison, Member of Congress from Washington

3. Hon. Jaime B. Fuster, Resident Commissioner, Commonwealth of Puerto Rico

4. Mr. Robert E. Leard, Administrator, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Christopher Martin, Acting Deputy Administrator, Family Nutrition Programs
   Mr. George Braley, Deputy Administrator, Special Nutrition Programs

5. Panel:
   Hon. James P. Moran, Jr., Mayor of Alexandria, Virginia, representing the United Conference of Mayors
   Acc. by: Ms. Laura DeKouen Waxman, Assistant Executive Director, U.S. Conference of Mayors
   Mr. Tim A. Grace, Food Stamp Director, Illinois Department of Public Aid, Springfield, Illinois
   Mr. William J. Knowles, Director, Department of Social Services, Charleston, South Carolina, and Vice Chairman, Social Services, National Association of Counties

6. Panel:
   Ms. Gloria Mercier, Chief of Nutrition Services, Shelby County Health Department, Memphis Tennessee
   Ms. Eleanor Josaitis, Executive Director, Focus:HOPE, Detroit, Michigan
   Mr. Robert J. Fersh, Executive Director, Food Research and Action Center, Washington, D.C.
   Mr. Bard Shollenberger, Policy Analyst on Domestic Hunger, Bread for the World, Washington, D.C.
   Ms. Janis G. Rhoads, Executive Director, Southeastern Idaho Community Action Agency, Pocatello, Idaho, and Regional Representative, National Community Action Agency Directors Association

7. Mr. Brian P. Crowley, Senior Associate Director, Resources Community and Economic Development Division, General Accounting Office, Washington, D.C.
   Acc. by: Mr. Barry T. Hill, Group Director, Resources, Community and Economic Development Division, GAO
   Mr. James R. Hamilton, Evaluator, Resources. Community and Economic Development Division, GAO
   Mr. Stanley Czerwinski, Assignment Manager, Community and Economic Development Division, GAO

Wednesday, April 16, 1986
Subcommittee on Domestic Marketing,
Consumer Relations, and Nutrition
Public Hearing
Review President's fy 1987 budget proposals for the Food Stamp Program, the Temporary Emergency Food Assistance Program, the Commodity Supplemental Food Program, and related nutrition programs

Statements Submitted for the Record:

1. Hon. Nick Rahall, Member of Congress from West Virginia

2. Mr. Raymond C. Scheppach, Executive Director, National Governors' Association, 444 N. Capitol Street, Washington, D.C. 20001-1572

3. Mr. Jose A. Ortiz-Daliot, Director, Puerto Rico Federal Affairs Administration, Washington, D.C.

Chairman Panetta called the meeting to order and made an opening statement on the need to review the President's fiscal year 1987 budget proposals for the programs under the Subcommittee's jurisdiction. Mr. Emerson and Mr. Olin also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the above-cited hearing. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 10:08 a.m. to enable Members to respond to a recorded vote on the House Floor. Messrs. Olin, Staggers, and de la Garza assisted Chairman Panetta with the chairing responsibilities. At 2:35 p.m. the meeting was adjourned to reconvene subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, April 16, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:20 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing operations of the Rural Electrification

Administration

The following Members were present:

Mr. Daschle
Mr. Weaver
Mr. Stenholm
Mr. Tallon
Mr. Thomas
Mr. Stallings
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Gunderson
Mr. Evans (Iowa)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members also present:

Mr. Durbin
Mr. Dorgan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Susan Adkins, Minority Consultant
Robert A. Cashdollar, Subcommittee Staff Director
Fred Clark, Staff Assistant
Kathy Hughes, Staff Assistant
James W. Johnson, Staff Assistant

Witnesses:

1. Hon. Richard Durbin, Member of Congress from Illinois

2. Hon. Byron L. Dorgan, Member of Congress from North Dakota

3. Mr. Harold V. Hunter, Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Bill Musgrave, Special Assistant to the Administrator, Rural Electrificiation Administration
   Mr. Jack VanMark, Deputy Administrator, Rural Electrification Administration

Wednesday, April 16, 1986
Subcommittee on Conservation, Credit,
and Rural Development
Public Hearing
Review of operations of the Rural
Electrification Administration

The meeting was called to order by Mr. Daschle, who served as Acting Chairman, for the purpose of receiving testimony on operations of the Rural Electrification Administration, including such issues as: debt of rural cooperatives; the Administration's proposed dismantling of the Rural Electrification Administration; privatization and its impact on loan rates; electric distribution loans; loan targeting; allowance for losses; impact of sale on borrower agencies; and a study conducted by the Rural Electrification Administration in support of the phaseout of the agency.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the above-cited subjects. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Mr. Stenholm requested that the representatives of the Rural Electrification Administration provide him with specific information on questions he posed.

Mr. Daschle adjourned the meeting at 12:30 p.m., subject to the call of the Chair.

Kathy Hughes
Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 22, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Business Meeting - a.m.

met at 10:15 a.m o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 4613, the Futures Trading Act of 1986

The following Members were present:

Mr.	Jones (Tenn.)	Mr.	Coleman	Mr.	
Mr.	Weaver	Mr.	Jeffords	Mr.	
Mr.	Glickman	Mr.	Morrison	Mr.	
Mr.	Daschle	Mr.	Gunderson	Mr.	
Mr.	Stenholm	Mr.	Evans, Iowa	Mr.	
Mr.	Tallon	Mr.	Franklin	Mr.	
Mr.	Thomas	Mr.		Mr.	
Mr.	Stallings	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Robert A. Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Fred Clark, Staff Assistant
Glenda Temple, Clerk

Witnesses:

Present to respond to Member's questions:

1. Hon. Susan Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.
2. Ms. Jean Harmann, Office of Legislative Counsel, U.S. House of Representatives, Washington, D.C.

Tuesday, April 22, 1986
Subcommittee on Conservation,
Credit, and Rural Development
Business Meeting - a.m.
Futures Trading Act of 1986
H.R. 4613

Action Taken:

-- By voice vote Weaver report language on dual trading approved with suggestion of Mr. Glickman.

-- By voice vote Glickman amendment and report language concerning the Commission's power to alter the rules of the National Futures Association adopted.

-- By voice vote Daschle amendment and report language on extraterritorial service of subpenas not agreed to.

-- Without objection Coleman report language on extraterritorial service of subpenas adopted.

-- By voice vote Stenholm amendment rescinding the options pilot program approved.

-- By voice vote Glickman report language on definition of commodity trading advisor agreed to.

-- By voice vote Glickman report language on composition of the governing boards of contract markets adopted.

Chairman Jones (Tenn.) called the meeting to order for the purpose of considering H.R. 4613, a bill to reauthorize funding for the Commodity Futures Trading Commission and to make other amendments to the Act. Mr. Jones made opening remarks as did Messrs. Coleman, Weaver, Evans (Iowa), Glickman, Daschle and de la Garza.

The following Commissioners of the Commodity Futures Trading Commission were recognized: Chairman Phillips, Mr. West, and Mr. Hineman.

Counsel Fraas was recognized to explain the provisions of the legislation. A copy of the bill and summary are attached.

Mr. Stenholm posed a question concerning the liaison between the U.S. Department of Agriculture and the Commodity Futures Trading Commission. Discussion occurred but no amendments were offered.

Tuesday, April 22, 1986
Subcommittee on Conservation,
Credit, and Rural Development
Business Meeting - a.m.
Futures Trading Act of 1986
H.R. 4613

Mr. Weaver advised that he had two concerns but would not offer amendments if report language could be agreed to. He then offered the attached report language on dual trading. Discussion occurred.

Mr. Glickman suggested that the language be amended on page 2 to add the word "possible" before the word "abuses" and then to add a period after the word "abuses", deleting the remainder of the sentence. Discussion continued.

Mr. Weaver moved that the language be approved with the inclusion of the word "possible" as suggested by Mr. Glickman but that the clarifying language remain in the report statement. By a voice vote the motion was agreed to.

Mr. Weaver advised that he would not offer an amendment but he was concerned about inspection on the floor of exchanges. He suggested that the Committee consider requiring a full-time inspector to be on the floor of exchanges at all times, with the exchanges assessed to cover the cost of the inspector.

Mr. Glickman offered the attached amendment concerning the Commission's power to alter the rules of the National Futures Association together with report language to accompany the amendment. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Daschle offered the attached amendment concerning the Commission's authority regarding the extraterritorial service of subpenas with accompanying report language. He noted that the page references were incorrect and the language to be deleted included page 2, line 11, thru page 3, line 5. Discussion occurred.

Mr. Coleman advised that he had a similar proposal which he had worked out with the State Department. The language was distributed as an alternative to the Daschle approach. Discussion continued and by a voice vote the Daschle amendment was not agreed to. The Coleman report language was then approved without objection.

Mr. Glickman advised that he had prepared other amendments but after listening to the Subcommittee's discussion he would revise them for consideration by the full Committee.

Tuesday, April 22, 1986
Subcommittee on Conservation,
Credit, and Rural Development
Business Meeting - a.m.
Futures Trading Act of 1986
H.R. 4613

Mr. Stenholm offered the attached amendment to rescind the options pilot program. Discussion occurred. The CFTC representative expressed some concern with the 60-day time limit, but had no other objection to the proposal. Discussion continued and by a voice vote the Stenholm amendment was approved.

Mr. Glickman offered report language concerning the definition of commodity trading advisors. Discussion occurred and by a voice vote the proposal was agreed to. Mr. Glickman then offered report language concerning the composition of the governing boards of contract markets and discussion occurred. By a voice vote the language was adopted.

At 12:10 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to continue consideration of H.R. 4613 and amendments thereto.

Glenda Temple

Glenda Temple

I

99TH CONGRESS
2D SESSION

H. R. 4613

To reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 1986

Mr. DE LA GARZA (for himself, Mr. MADIGAN, Mr. JONES of Tennessee, and Mr. COLEMAN of Missouri) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1986".

FRAUDULENT PRACTICES

SEC. 2. Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by—

(1) striking out "on or subject to the rules of any contract market," in the first sentence;

(2) designating the first sentence as subsection (a) and the second sentence as subsection (b); and

(3) adding, at the end thereof, the following:

"(c) Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, market, or clearinghouse for such board of trade, exchange, or market located outside the United States, its territories, or its possessions involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.".

EXTRATERRITORIAL SERVICE OF SUBPOENAS

SEC. 3. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended by—

(1) inserting "(except as provided in the proviso of the following sentence)" immediately before "may administer oaths and affirmations, subpoena witnesses" in the third sentence;

(2) striking out "or any State" in the fourth sentence and inserting in lieu thereof ", any State, or any foreign country or jurisdiction"; and

(3) inserting, immediately before the period at the end of the fourth sentence, a semicolon and "and a subpoena issued under this subsection may be served on any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure

prescribe for service of process in a foreign country: *Provided,* That a subpoena to be served on a person outside the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission".

EX PARTE APPOINTMENTS OF TEMPORARY RECEIVERS

SEC. 4. The proviso of the first sentence of section 6c of the Commodity Exchange Act (7 U.S.C. 13a–1) is amended by inserting, within the parenthetical phrase immediately before the close parenthesis, a comma and "and other than an order appointing a temporary receiver to administer such restraining order and perform such other duties as the court may consider appropriate".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 5. Section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by—

(1) inserting, immediately before the period at the end of the first sentence, the following: "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission"; and

(2) striking out the second and third sentences and inserting in lieu thereof the following: "The foregoing prohibitions shall not apply to any transaction or class

of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this section.".

REAUTHORIZATION

SEC. 6. Effective October 1, 1986, section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There hereby are authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.".

REGISTERED FUTURES ASSOCIATION DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS

SEC. 7. Subsections (h) and (i) of section 17 of the Commodity Exchange Act (7 U.S.C. 21 (h) and (i)) are amended to read as follows:

"(h)(1) If any registered futures association takes any final disciplinary action against a member thereof or a person associated with a member, or denies admission to any person seeking membership therein or bars any person from being associated with a member, the association promptly shall file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this Act.

"(2) Any action with respect to which a registered futures association is required by paragraph (1) of this subsection to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved thereby. Such application must be filed within thirty days after the date such notice was filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

"(3) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish standards for an expedited procedure for consideration and determination of the question of a stay.

"(i)(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

"(A) if the Commission finds that (i) such member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted; (ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and (iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2) of this subsection, or remand the case to the association for further proceedings; or

"(B) if the Commission does not make any such finding, it shall set aside, by order, the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

"(2) If after a proceeding in accordance with paragraph (1) of this subsection, the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

"(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)—

"(A) if the Commission finds that (i) the specific grounds on which the denial or bar is based exist in fact, (ii) the denial or bar is in accordance with the rules of the association, and (iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall dismiss the proceeding; or

"(B) if the Commission does not make any such finding, it shall set aside, by order, the sanction imposed by the association and require it to admit the applicant to membership therein, or permit the person to be associated with a member.

"(4) Any person (other than a registered futures association) aggrieved by a final order of the Commission entered under the provisions of this subsection may file a petition for review with a United States court of appeals in accordance with section 6(b) of this Act.".

REGISTERED FUTURES ASSOCIATION RULES

SEC. 8. (a) Section 17(j) of the Commodity Exchange Act (7 U.S.C. 21(j)) is amended by striking out the third sentence.

(b) Section 17(k) of the Commodity Exchange Act (7 U.S.C. 21(k)) is amended by—

(1) striking out "title" in paragraph (1) and inserting in lieu thereof "section"; and

(2) striking out the second sentence of paragraph (2) and inserting in lieu thereof the following: "If such association fails to adopt such alteration or supplement within a reasonable time, the Commission, by order, may alter or supplement the rules of such association in the manner theretofore requested, or with such modification of such alteration or supplement as it deems necessary, if, after appropriate notice and opportunity for hearing, it appears to the Commission that such alteration or supplement is necessary or appropriate in the public interest to ensure fair dealing by the members of such association or to ensure a fair representation of its members in the administration of its affairs, or to effectuate the purposes of this section. Such alterations or supplements may specify changes with respect to such matters as—

"(A) the basis for, and procedure in connection with, the denial of membership or the barring from being associated with a member or the disciplining of members or persons associated with members, or the qualifications required for members or individuals associated with members or any class thereof;

"(B) the method of adoption of any change in or addition to the rules of the association;

"(C) the method of choosing officers and directors;

"(D) safeguards with respect to the financial responsibility of members;

"(E) the manner, method, and place of soliciting business by members, including the content of such solicitations; and

"(F) the form and manner of handling, recording, and accounting for customer orders, transactions, and accounts by members.".

○

BRIEF SUMMARY

This bill will reauthorize appropriations to carry out the regulatory program under the Commodity Exchange Act, and make several technical improvements to that Act.

In brief, the major provisions of the bill would--

(1) Reauthorize appropriations for the Commodity Futures Trading Commission for three years;

(2) Make technical amendments to the Commodity Exchange Act to clarify that the Act prohibits fraud in connection with any futures contract, regardless of whether executed on a contract market;

(3) Expressly authorize the CFTC (on a majority vote of the Commission) to serve investigatory subpoenas on persons outside the United States;

(4) Authorize the CFTC to seek appointment of a temporary ex parte receiver when it seeks an ex parte freeze on assets or records to prevent the assets from being dissipated or the records destroyed;

(5) Permit CFTC employees to invest in actual commodities so long as no nonpublic information is used and the transactions do not involve futures or options, and authorize the CFTC to permit other employee transactions by regulation;

(6) Simplify and clarify CFTC procedures for review of disciplinary actions brought by the National Futures Association;

(7) Delete from the Act a provision that requires CFTC to act on NFA rules within 30 days; and

(8) Provide new authority for the CFTC to alter NFA rules.

Weaver

House Report Language for Dual Trading.

The practice known as dual trading permits a floor broker to trade for his own account, or any account in which he has trading discretion, and also execute a customer's order for commodity futures contracts. Section 4j(1) of the Commodity Exchange Act required the Commission, within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, to make a determination whether or not dual trading by floor brokers should be permitted. Section 4j(1) also empowers the Commission subsequently to determine that changes may be required with respect to its original determination.

After studying the issue, the Commission determined not to prohibit dual trading per se, but did adopt in 1977 trading standards for floor brokers. These standards generally require exchanges to have rules requiring their member floor brokers to execute customer orders before executing the brokers' own orders. The Commission subsequently adopted rules under Section 4c of the Act to extend these standards to the trading of commodity options. The Committee is aware that the Commission has recently adopted new audit trail regulations to enhance its ability to reconstruct futures and options trading on the exchanges. These rules are designed to enable the exchanges and the Commission, among other things, more easily to detect violations of floor broker trading standards. Nevertheless, the Committee is concerned that even with the new audit trail requirement, there may be dual trading abuses occurring on the floor of the exchanges in violation of Commission rules. Therefore, upon implementation by the exchanges of their audit trail rules, the Committee believes that the Commission should exercise its authority under the Act to determine whether the audit trail rules are adequate to detect such abuses, whether any additional trading standards should be adopted for floor brokers or whether the practice known as dual trading by floor brokers should be prohibited.

GLICKMAN
AMENDMENT--4
(CFTCR-A4)

AN AMENDMENT TO HR 4613
OFFERED BY MR. GLICKMAN

CONCERNING THE COMMISSION'S POWER TO ALTER
THE RULES OF THE
NATIONAL FUTURES ASSOCIATION

HR 4613 is amended by striking Section 8(b), all the language that appears on page 8, at line 6 through and including page 9, line 17.

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COMMITTEE REPORT LANGUAGE TO ACCOMPANY THE AMENDMENT

During the Subcommittee' hearings on reauthorization, several witnesses addressed the performance of the industry's self-regulatory body, the National Futures Association, during the previous four years. In this connection and in addition to the several periodic reports the Committee has received about the NFA, including the Commission's essentially favorable evaluation of NFA as called for under Section 26(b) of the Act, the Committee believes that it the relationship between the NFA and the Commission has worked satisfactorily.

The bill retains existing law on the question of the Commission's power to alter or supplement the rules developed by NFA. The amendment strikes from the bill the proposal incorporated into the Commission's legislative recommendations to grant the Commission additional power to alter NFA rules.

Notwithstanding the Committee's view that this power is not needed at this time and the adoption of the amendment, the Committee will continue to follow very closely the development of NFA to assure that it fulfills its obligations as a self-regulatory organization under Commission oversight. Provided that NFA continues to meet those obligations, the Committee expects that it will continue its current view of the adequacy of the Commission's oversight powers.

Daschle
~~GLICKMAN~~
AMENDMENT--7
(CFTCR-A7)

AN AMENDMENT TO HR 4613
OFFERED BY MR. GLICKMAN

CONCERNING THE COMMISSION'S AUTHORITY
REGARDING THE EXTRATERRITORIAL SERVICE OF SUBPENAS

HR 4613 is amended by striking Section 3, all the language on page 2, at line 17 through and including the language on page 3, line 13.

* * *

SUGGESTED COMMITTEE REPORT LANGUAGE TO ACCOMPANY THE AMENDMENT

Although the Subcommittee is not unsympathetic to the concerns the Commission raised in its legislative recommendation regarding the extraterritorial service of subpenas, the Committee failed to grant the Commission this new power. At this time, the Committee does not believe that the Commission needs this new authority, that it the adoption of this proposal would have caused serious concerns with respect to foreign governments, and that the Commission should seek to implement other means to ensure that foreign nationals using United States markets comply with the Act and Commission rules and regulations.

The Committee is aware that this recommendation grew out of the Commission's response to the U.S. Court of Appeals decision in CFTC v. Nahas, 738 F. 2d 487 (D.C. cir. 1984), which invalidated enforcement of a Commission subpoena served in Brazil upon a Brazilian citizen. However, in that opinion, the court also stated that to construe the law as authorizing a court to enforce a Commission subpeona served on a foreign citizen in a foreign nation "would seriously impinge on principles of international law."

The Committee shares the court's view and is concerned that extraterritorial service of subpeonas as proposed would indeed violate international law and would constitute an invasion of the sovereignty of foreign nations. In addition, the Committee is unaware of any additional cases besides the Nahas case which have come before the Commission which have posed similar problems; at this time, the Committee does not believe that the Commission has demonstrated an overwhelming need for such an extraordinary grant of authority.

Nonetheless, the Committee does recognize that given the expansion of the universe of market users of US futures and options markets and the linkages between US contract markets and contract markets overseas, that the Commission should pursue some mechanism to ensure that it will be able to share with foreign governments and regulators information needed to ensure the integrity of US markets. For example, the Securities and Exchange Commission has negotiated bilateral arrangements with its counterparts overseas to provide for the sharing of information and the Committee believes that it would be appropriate for the Commission to pursue this avenue.

The Committee notes that the Commission and the British Government are engaged in discussions along this line and would encourage the Commission to continue those negotiations to a successful conclusion. In addition, the Commission should cooperate with the industry's self-regulatory body in the discussions it, the National Futures Association, might pursue in this regard.

Finally, in reviewing existing and proposed linkages between US contract markets and foreign exchanges, the Commission should be mindful of this concern in approving the agreements.

[illegible]

Coleman

Report Language

Item I. B--Extraterritorial Service of Subpoenas

In granting this authority, the Committee recognizes the importance of the Commission's ability to obtain information from foreign nationals who trade in the U.S. markets. Such information is necessary for the Commission to perform its investigatory and surveillance responsibilities to assure that the markets are safe for all participants, domestic and foreign. However, the Committee recognizes that the Commission does not anticipate exercising this authority as a routine matter.

The Committee understands the Commission has traditionally consulted with the State Department, as it did in the Nahas case, to find a means of contacting foreign nationals in a way that seeks to avoid offending the foreign nation and that the Commission intends to maintain that practice, where practicable. In like fashion , although dependent on the facts and circumstances of a particular case, the Committee understands that, where appropriate, the Commission will consult through the State Department with representatives of the receiving nation, with a view toward minimizing any perceived intrusion upon the nation's sovereignty. In addition, where there are particular treaties or governmental mutual assistance guarantees, the Committee intends that the Commission utilize them, to the extent practicable.

AMENDMENT TO H.R. 4613

OFFERED BY MR. STENHOLM

(AMENDMENT TO RESCIND OPTIONS PILOT PROGRAM)

ADD, ON PAGE 9, AFTER LINE 19, THE FOLLOWING:

SEC. 9. OPTIONS TRANSACTIONS.

SECTION 4C(C) OF THE COMMODITY EXCHANGE ACT (7 U.S.C. §C(C)) IS AMENDED TO READ AS FOLLOWS:

"(C) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE FUTURES TRADING ACT OF 1986, THE COMMISSION SHALL RESCIND ITS OPTIONS PILOT PROGRAM, INCLUDING ANY NUMERICAL RESTRICTIONS ON THE OPTIONS THAT MAY BE TRADED ON EACH DESIGNATED CONTRACT MARKET, AND SHALL ESTABLISH A PERMANENT PROGRAM FOR THE TRADING OF OPTIONS ON FUTURES CONTRACTS AND PHYSICAL COMMODITIES ON DESIGNATED CONTRACT MARKETS UNDER SUCH TERMS AND CONDITIONS AS THE COMMISSION SHALL PRESCRIBE. NOTWITHSTANDING THE FOREGOING SENTENCE, ANY TRANSACTION EXPRESSLY PERMITTED UNDER RULES OR REGULATIONS PRESCRIBED BY THE COMMISSION, BEFORE OR AFTER THE DATE OF ENACTMENT OF THE FUTURES TRADING ACT OF 1978, TO BE OFFERED TO BE ENTERED INTO, ENTERED INTO, OR CONFIRMED, IN WHICH THE PURCHASER IS A PRODUCER, PROCESSOR, COMMERCIAL USER OF, OR A MERCHANT HANDLING, THE COMMODITY INVOLVED IN THE TRANSACTION OR THE PRODUCTS OR BYPRODUCTS THEREOF, MAY CONTINUE TO BE OFFERED TO BE ENTERED INTO, ENTERED INTO, OR CONFIRMED.".

DN: CTA Draft
DN: MEB35

DRAFT 4/21/86

Draft of House Committee Report Language

Representatives of the life insurance industry proposed that the definition of "commodity trading advisor" (CTA) in the Act be amended to exclude any investment adviser registered with the SEC under the Investment Advisers Act of 1940 whose advice concerning commodity interests is solely in connection with the management of institutional securities portfolios. The life insurance industry urged that such an exclusion was necessary to avoid duplicative and inappropriate regulation, and to put institutional investment advisers such as insurance companies on a par with banks and trust companies, which are already excluded from the definition of CTA if their commodity advisory activities are solely incidental to the conduct of their business as banks and trust companies. Other witnesses supported the insurance companies' proposal.

The Commission opposed the proposed statutory exclusion as too broad. The Commission further indicated that it did not consider the proposed statutory amendment necessary in any event, since the Commission has existing authority under Section 2(a)(1)(A) of the Act to exclude or exempt from the definition of a CTA "such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order." In this connection, the Commission advised the Committee that within the past year its staff received and affirmatively responded to two "no-action" requests from an insurance company regarding some of the problems that would be addressed by the proposed amendment. The Commission further advised the Committee that it is prepared, and has ample authority, to address the concerns of the life insurance industry as it becomes more active in the commodity markets.

The Committee believes that any insurance company subject to regulation by state insurance departments, any wholly-owned subsidiary, or any employee thereof, provided its commodity advisory activities are solely incidental to the conduct of the business of the insurance company as such, generally is not within the intent of the definition of the term "commodity trading advisor." The Committee similarly believes that any person who is excluded from the definition of the term "commodity pool operator" (CPO) by Commission Rule 4.5 should be excluded from the CTA definition, provided its commodity advisory activities are solely incidental to its operation of those trading vehicles for which Rule 4.5 provides relief. Relatedly, where the advisor advises an entity which is excluded from the definition of a pool under Rule 4.5 or is a Rule 4.5 qualifying entity and such advisor is subject to appropriate regulation under the Investment Advisers Act, that advisor should ordinarily be exempted from the CTA definition provided that its commodity advice is solely incidental to its business of providing securities advice to such entity and the advisor is not otherwise holding itself out as a CTA. Therefore, the Committee urges the Commission to exercise its authority to adopt regulations in this regard.

Should the Commission determine that registration as a CTA is required, the Committee expects that the Commission will use its existing authority to consider other appropriate relief. In this regard, the Committee is aware that the Commission has exercised its authority to limit, by exemption, those employees of otherwise regulated entities who must register as an associated person of a CTA. The Committee further understands that the Commission has coordinated its activities with the SEC in order to eliminate duplicative requirements, for example by deeming in appropriate cases compliance with SEC disclosure, recordkeeping and reporting requirements as sufficient compliance with the Commission's corresponding CPO requirements. The Committee intends that the Commission will continue to provide this and such other relief as may be appropriate to applicants for registration as a CTA or in any other registration category. On the other hand, the Committee does not expect the Commission to grant exempted CTAs any relief from the antifraud provisions of Section 4o of the Act.

The Committee understands that rulemaking addressing these concerns may take some time for the Commission to develop and promulgate. Individual requests for exclusions or exemptions, consistent with the above guidelines, however, should be processed by the Commission as expeditiously as practicable. The Commission's experience with individual cases should facilitate the formation of any future rulemaking.

GLICKMAN
REPORT LANGUAGE--1
(CFTCR-R1)

LANGUAGE TO ACCOMPANY THE COMMITTEE REPORT ON HR 4613
OFFERED BY MR. GLICKMAN

CONCERNING THE COMPOSITION OF THE GOVERNING BOARDS OF CONTRACT MARKETS

During the Subcommittee's reauthorization hearings, several witnesses testified that the several categories of futures markets participants -- including brokerage houses, commercial users such as farmers and other hedgers, floor traders, and the general public -- are currently more fully represented on the boards of the commodities exchanges than they have been in the past. For example, three exchanges -- the Chicago Board of Trade, the Chicago Mercantile Exchange, and the Kansas City Board of Trade -- have added representatives of the agricultural community to their governing boards since the reauthorization of the Commission in 1982, complementing steps other exchanges have taken to include public members on their boards. In addition, the futures industry's self-regulatory body, the National Futures Association, has attempted to make its governing board representative of all entities it is responsible for regulating.

Because the commodities exchanges are quasi-governmental bodies providing the sole mechanism through which futures contracts can be publicly traded in the United States, the Committee believes the movement in the commodities industry to broader representation, including representation by farmers and other users, is laudable. The Committee strongly believes the pendulum should not be allowed to swing in the other direction. Entities that an enjoy an exclusive statutory franchise and have the authority to establish rules -- limiting access to their markets, prescribing trading practices, and disciplining errant members -- possess a public trust of sorts. They should not take actions which directly or indirectly make their governing boards less representative of the exchange community. Indeed, the Committee notes its view is shared by other entities concerned with the financial community: The National Association of Securities Dealers, Inc., like the National Futures Association, has attempted to makes its board broadly representative of securities markets users. Also, when a major securities options exchange recently proposed to amend its rules to give greater control to a particular segment of market users, the Securities and Exchange Commission refused to approve the rule change.

In light of the significance of this matter, the Committee believes the Commission should monitor the composition of the boards of the commodities exchanges and should encourage the exchanges to have broad representation on their boards to include the various categories of market participants and the various parties with an interest in the markets.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 22, 1986

(Sub) Committee: Conservation, Credit, and Rural Development

Business Meeting - p.m.

met at 2:10 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 4613, the Futures Trading Act of 1986

The following Members were present:

Mr. Jones (Tenn.)
Mr. Weaver
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Tallon
Mr. Evans (Ill.)
Mr. Thomas
Mr. Stallings
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Jeffords
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Franklin
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Staff Present:
Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Bob Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant

Witnesses:

Present to respond to Member's questions:

1. Hon. Susan Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.
2. Ms. Jean Harmann, Office of Legislative Counsel, U.S. House of Representatives, Washington, D.C.

Tuesday, April 22, 1986
Conservation, Credit, and Rural
Development Subcommittee
Business Meeting - p.m.
Futures Trading Act of 1986
H.R. 4613

Action Taken:

-- By show of hands vote of 5 yeas-9 nays Glickman amendment on regulation of leverage contracts not agreed to.

-- Without objection Glickman report language on definition of hedging withdrawn

-- By voice vote Evans (Ill.) report language on audit trails agreed to.

-- By voice vote H.R. 4613, as amended, ordered reported to the full Committee in the presence of a quorum.

Chairman Jones (Tenn.) called the meeting to order for the continued consideration of legislation to reauthorize the Commodity Futures Trading Commission, and amendments to the Act.

Mr. Glickman offered the attached amendment concerning the regulation of leverage contracts. Discussion occurred and by a show of hands vote of 5 yeas-9 nays the amendment was not agreed to.

Mr. Glickman offered report language concerning the Commission's hedging definition. Discussion occurred and without objection the proposed language was withdrawn to enable Mr. Glickman, staff and CFTC representatives to work out language prior to full Committee consideration.

Mr. Evans (Ill.) offered the attached report language on audit trails. Discussion occurred and by a voice vote the proposal was agreed to.

Mr. Glickman moved that H.R. 4613, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (11 Members present and voting). Staff was given permission to make any necessary clerical and technical changes.

During the proceedings recesses were taken at 2:25 p.m. and 3:05 p.m. to enable Members to respond to recorded votes on the House floor. At 3:55 p.m. the meeting was adjourned subject to the call of the Chair.

Glenda Temple

Glenda Temple

GLICKMAN
AMENDMENT-6
(CFTCR-A6)

AN AMENDMENT TO HR 4613
OFFERED BY MR. GLICKMAN

CONCERNING THE REGULATION OF LEVERAGE CONTRACTS

HR 4613 is amended by adding after Section 8, on page 9, after line 17 the following new section --

"Section 9. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by --

"(a) striking out existing subsection (b) and adding in lieu thereof a new subsection (b) to read as follows:

"(b) Prior to January 1, 1988, no person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of any commodity that is not covered by the prohibition in subsection (a) of this section under a standardized contract of a type described in subsection (a) of this section, unless such person has --

"(1) applied on or before September 4, 1985, to the Commission for registration as a leverage transaction merchant, as defined by the rules, regulations, and orders of the Commission;

"(2) satisfied all requirements for such registration under the rules, regulations, and orders of the Commission, including but not limited to the rules in effect on September 4, 1985, imposing moratoria on the entry into, entering into, or confirming the execution of any transaction for the delivery of any commodity under a standardized contract of a type described in subsection (a) of this section; and

"(3) received approval from the Commission of such application for registration as a leverage transaction merchant: Provided, That, the leverage transaction merchant registration of any person shall be suspended with out hearing if its business of offering to enter into, entering into, or confirming the execution of any transaction for the delivery of any commodity under a standardized contract of a type described in subsection (a) of this section, has been purchased, sold, assigned, or otherwise transferred on or after September 4, 1985 to any other person that does not satisfy independently the requirements of subsections (b)(1), (b)(2), and (b)(3) of this section.

The provisions of subsection (b)(1), (b)(2), and (b)(3) of this section shall not apply to any natural person lawfully registered as an associated person of a registered leverage transaction merchant.";

"(b) striking out existing subsection (C) and adding in lieu thereof a new subsection (c) to read as follows:

"(c) On or after January 1, 1988, no person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of any commodity that is not covered by the prohibition in subsection (a) of this section under a standardized contract of a type described in subsection (a) of this section, regardless of its duration, unless such transaction is conducted --

"(1) on or subject to the rules of a board of trade which has been designated by the Commission as a contract market under the provision of section 5 and section 6 of this Act, and

"(2) in accordance with all other provisions of this Act and rules, regulations, and orders of the Commission applicable to contracts for the purchase or sale of a commodity for future delivery.".

GLICKMAN
REPORT LANGUAGE--HEDGING
(CFTCR-RH)

LANGUAGE TO ACCOMPANY THE COMMITTEE REPORT ON HR 4613
OFFERED BY. MR. GLICKMAN
CONCERNING THE COMMISSION'S HEDGING DEFINITION

During the Subcommittee's hearings, a number of witnesses including market users and the exchanges discussed the need for the Commission to modify the definition of "bona fide hedging." They indicated that, the bona fide hedging definition in Rule 1.3(z), last amended in 1977, does not accommodate many prudent, non-speculative portfolio management strategies using financial futures and options contracts which have been developed in the last several years. Further,the current restrictive definition may prevent full realization of the economic potential of these instruments, which may adversely affect the long-term growth and vitality of these markets.

The Committee believes that the Commission should reexamine the current hedging definition, which may have been appropriate for futures contracts on physical commodities under a merchandising environment, but does not adequately reflect widespread uses of financial futures and options contracts by portfolio managers, who must choose among different investments with varying levels of risk and anticipated returns. Under Section 4a(3) of the Act the Commission has broad authority to revise and update the hedging definition, and indeed Congress directed the Commission in 1974 to "define hedging in a manner more consistent with the times and practices of the industry. It is not the intent of the Committee that it be used to overly restrict industry use of the futures markets for hedging." See House Report 93-975, 93d Congress, 2d Sess., 31-32 (1974).

The Committee is aware that portfolio managers are using financial futures and options contracts for risk management purposes in ways which do not always comport with traditional notions of the hedging concept formulated for futures contracts on physical commodities. For example, some of these risk management purposes may include the assumption of a futures position which is not opposite to a cash market position, or of a futures position which is not subsequently converted into an equivalent cash market position. For the last fifty years, however, futures transactions have been categorized as "speculative" or "hedging" and the term "hedging" has become synonymous with legitimacy. Thus, portfolio managers may be foreclosed from using financial futures and options contracts for prudent risk management purposes, if such uses are categorized as "speculative" under a hedging definition which is no longer appropriate for today's financial futures and options markets.

The Committee recognizes that the ability of institutional money managers to use financial futures and options contracts for prudent risk management purposes ultimately benefits the millions of Americans whose savings, investments, and pensions they manage and urges the Commission to keep this in mind in considering the hedging definition. Thus, financial futures and options contracts, because of the reduced transaction costs and market liquidity, often provide a cheaper and more efficient means to implement prudent risk management strategies than other instruments and investors and pensioners should not be denied the benefits of such use. The Committee also notes that institutional money managers are subject to stringent fiduciary obligations and regulations under other bodies of law such as the Employee Retirement Income Security Act, banking and securities laws, and state insurance laws. In this regard and in view of the fundamental differences in the nature and uses of futures and options contracts on financial instruments and on physical commodities, the Commission may well conclude that a separate hedging definition for financial futures and options contracts is appropriate.

In any event, the Committee believes that the hedging definition should be amended to: one, incorporate the concept of "risk mangement" by portfolio managers as an alternative to the concept of "risk reduction," which often is inapposite to the activities of portfolio managers; two, recognize that futures positions take as an alternative, rather than substitutes for cash market positions, may qualify as hedges; three, confirm that widely accepted trading strategies involving the use of financial futures and options contracts including, but not limited to, asset allocation (altering portfolio exposure in certain areas such as equity and debt), portfolio immunization (curing mismatches between the duration and sensitivity of a pension funds' assets and liabilities to assure that portfolio assets will be sufficient to fund payment of its liabilties), and duration hedging (altering the average maturity of a portfolio's assets) may qualify as hedges as part of prudent risk management; and four, incorporate options transactions in accordance with the foregoing, and in particular the writing of covered puts and calls.

In addition, the Committee believes that the Commission should avoid any numerical test for determing whether a transaction qualifies as a hedge, such as a requirement that a specified percentage of transactions result in actual purchase of the underlying instrument, which is particularly ill-suited to financial futures and options contracts and in many circumstances inconsistent with the concept of prudent risk management. In applying the amended definition, the focus instead should be on the intent and purpose of a transaction interpreted in the context of the overall investment objectives, without resort to the use of any numerical test which inevitably will be arbitrary and frustrate legitimate use of these markets. The Committee expects that the Commission will apply this approach in analyzing new uses and strategies which are likely to be developed in the future.

House Committee Report Language On Audit Trails

On January 14, 1986, the Commission adopted a new regulation designed to achieve more effective audit trails on our futures exchanges. Through the reconstruction of trading activity, audit trails provide an important exchange surveillance tool. Thus, audit trails facilitate the exchanges' ability to detect and punish persons engaged in improper and unethical practices.

The Commission's new regulation ~~establishes a goal~~ provides that the time of execution for each futures and options transaction be identified by a means developed by the exchange to the nearest minute. In addition, the Commission's regulation calls upon the exchanges ~~to be able~~ to demonstrate the capability to utilize effectively this trade timing data in their self-regulatory programs.

In preparation for these hearings, Committee staff received a demonstration of a new audit trail system devised jointly by the Chicago Board of Trade and the Chicago Mercantile Exchange called the Computerized Trade Reconstruction System. The Chicago exchanges developed this system in order to satisfy what they understood to be the requirements of the Commission's audit trail rule. The exchanges recognize that the CTR system will not capture accurately the trade times of every futures or options transaction. Indeed, in fast-paced, liquid, futures and options trading, where simultaneous multiple executions frequently occur, it would be impossible to determine accurately the ~~trade execution time~~ exact sequence of every transaction. Nevertheless, the exchanges believe the CTR system will accomplish the Commission's objective of an effective audit trail.

Based on this premise, the exchanges presented their CTR system to the Commission and provided each Commissioner with a personal demonstration of the CTR system's expected capabilities. The exchanges have also described in writing the CTR system for the Commission. As explained to the Committee in testimony, the exchanges provided these demonstrations and materials to the Commission in order to receive sufficient assurances from the Commission that the CTR system would satisfy the new audit trail regulation before the exchanges expended the substantial resources required to implement fully the CTR system.

At the hearings on this legislation, Committee members thoroughly questioned Commission Chairman Phillips on the

Commission's intentions with regard to the audit trail regulation and the CTR system. Chairman Phillips testified that the one-minute timing standard of the new regulation was intended to be a goal toward which the exchanges should strive and that it should not be interpreted or applied in its narrowest or most technical sense. Chairman Phillips explained that the Commission's purpose in adopting the audit trail regulation was to create an effective audit trail. Chairman Phillips further stated that, based on the exchanges representations, the Commission anticipates that the CTR system would be capable of complying with the Commission's audit trail regulation when the system was operational. Finally, Chairman Phillips tified ~~indicated~~ that the exchanges would not be liable, if they [illegible] failed to capture the trade time of every ~~each~~ trade executed on the floor of their exchanges. Indeed, Chairman Phillips testified that the Commission would be ~~very~~ satisfied if the exchanges could capture 90 percent of the trade times, [recognizing that in ~~more~~ fast paced ~~and liquid~~ markets the threshold compliance level [~~would~~ | ~~have to~~ could be reduced to reflect market reality.]

Based on these representations from ~~the~~ exchanges and the Commission, the Committee understands that the exchanges now plan to proceed in good faith to implement their CTR system. The Committee applauds the exchanges' decision. The Committee anticipates that the Commission will administer its new audit trail regulation in a manner designed to accomplish the ultimate goal of an effective audit trail and will not interpret the new regulation's one-minute timing requirement ~~rigidly or restrictively~~ in its narrowest, most technical sense, consistent with the Commission's testimony before the Committee.

The Committee anticipates that the Commission and the exchanges will keep the Committee fully apprised of developments concerning the audit trail rule and the CTR system. The Committee is well aware that the audit trail issue has been a major ~~bone of contention at the Commission~~ controversy since the creation of the agency. The Committee is pleased that the Commission has moved forward on this issue~~, with the assistance of the exchanges,~~ and expects the efforts ~~for mutual cooperation~~ in this area to produce even stronger public protections than exist today. ★

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date April 22, 1986

(Sub) Committee: Tobacco and Peanuts

Public Hearing

met at 2:00 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the status of regulations relating to certification of pesticides used on imported tobacco.

The following Members were present:

Mr. Rose
Mr. Hatcher
Mr. Whitley
Mr. Tallon
Mr. Thomas
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Hopkins
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.
Mr.
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Members Also Present:

Mr. Valentine
Mr.
Mr.
Mr.
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Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Jim Davis, Staff Assistant
Rick Kirchhoff, Minority Consultant
Francie Monaghan, Staff Assistant
Heidi Pender, Subcommittee Staff Director
Joan Teague Rose, Staff Consultant

Witnesses:

Panel

1. Mr. James C. Handley, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.
2. Mr. Lionel Edwards, Director, Tobacco Division, U.S. Department of Agriculture, Washington, D.C.
3. Mr. Thomas M. Walsh, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C.
4. Mr. Robert Erdman, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C.

Tuesday, April 22, 1986
Tobacco and Peanuts Subcommittee
Public Hearing
Review of status of regulations relating to certification of pesticides used on imported tobacco.

Chairman Rose called the meeting to order for the purpose of hearing testimony from Administration witnesses on the status of regulations relating to certification of pesticides used on imported tobacco. Mr. Rose and the other members of the Subcommittee expressed concern that officials at the Office of Management and Budget have not responded in a timely manner to adoption and publication of the proposed regulations.

When Members learned that appropriate officials from the U.S. Department of Agriculture were scheduled to meet with representatives of OMB later in the afternoon, Mr. Rose urged that the concerns of Members of the Tobacco Subcommittee expressed in this hearing be made known to OMB.

During the proceedings one recess was taken at 2:20 p.m. to enable Members to respond to a recorded vote on the House Floor. At 3:05 p.m., the meeting was adjourned subject to the call of the chair.

Francie Monaghan
Francie Monaghan

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 29, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing

met at 9:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the impact of the dairy termination program on the red meat industry; and H.R. 4683, the Processed Products Inspection Improvement Act; general meat inspection issues

The following Members were present:

Mr. Coelho
Mr. Olin
Mr. Penny
Mr. Stenholm
Mr. Daschle
Mr. Jones (Tenn.)
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Stangeland
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr.
Mr.
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Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:
Mr. Combest
Mr. Roemer
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Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Cristobal P. Aldrete, Special Counsel
Bernard Brenner, Press Secretary
Carol Ann Dubard, Staff Assistant
Steve Kerr, Minority Consultant
William E. O'Conner, Jr., Assistant Minority Staff Director
Courtney Pastrick, Staff Assistant
Kim Schnoor, Subcommittee Staff Director
Glenda Temple, Clerk
Jeffrey Weiss, Staff Assistant

Witnesses:

1. Mr. Ewen M. Wilson, Deputy Assistant Secretary for Economics, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Paul Fuller, Director, Livestock, Grain, and Seed Division, Agricultural Marketing Service
   Mr. Phil Holloway, Director of Dairy, Livestock, and Poultry, Foreign Agricultural Service
   Mr. Terry Jackson, Office of General Counsel, USDA
   Mr. Charles Shaw, Group Leader, Dairy and Sweetener Group, Agricultural Stabilization and Conservation Service

2. Panel:
   Dr. Donald L. Houston, Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture Washington, D.C.
   Mr. Donn E. Adkisson, Assistant Inspector General for Audit, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C.

3. Panel:
   Mr. C. Manly Molpus, President, American Meat Institute, Arlington, Virginia
   Acc. by: Mr. Bob Hibbert, Vice President and General Counsel, American Meat Institute
   Dr. Charles F. Cook, Manager of Regulatory Affairs, Oscar Mayer Foods Corporation, Madison, Wisconsin
   Ms. Rosemary Mucklow, Executive Director, Western States Meat Association, Oakland, California
   Mr. Bob Ondrusek, Past President and Director, Southwestern Meat Packers Association, Irving, Texas

Statements Submitted for the Record:

1. Hon. Robert W. Kastenmeier, Member of Congress from Wisconsin

2. Hon. Charles W. Stenholm, Member of Congress from Texas

Tuesday, April 29, 1986
Livestock, Dairy, and Poultry Subcommittee
Public Hearing - a.m.
Review impact of dairy termination program; H.R. 4683, Processed Products Inspection Improvement Act; general meat inspection issues

Chairman Coelho called the meeting to order for the purpose of receiving testimony on the above-cited issues. The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the discussion of red meat inspection, staff was directed to look at the possibility of including poultry and egg inspection to the legislation.

At 12:05 p.m. the meeting was adjourned to reconvene at 1:30 p.m. this date to receive testimony from other scheduled witnesses.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 29, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing - p.m.

met at 2:20 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the impact of the dairy termination program on the red meat industry; and H.R. 4683, the Processed Products Inspection Improvement Act; and general meat inspection issues

The following Members were present:

Mr. Coelho
Mr. Penny
Mr. Stenholm
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
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Staff Present:
Charles Rawls, Associate Counsel
Cristobal P. Aldrete, Special Counsel
Bernard Brenner, Press Secretary
Carol Dubard, Staff Assistant
Steve Kerr, Minority Consultant
Courtney Pastrick, Staff Assistant
Kim Schnoor, Subcommittee Staff Director
Glenda Temple, Clerk
Jeffrey Weiss, Staff Assistant

Witnesses:

1. Panel:
   Ms. Ellen Haas, Executive Director, Public Voice, Washington, D.C.
   Mr. Rodney E. Leonard, Executive Director, Community Nutrition Institute, Washington, D.C.
   Mr. Delmer Jones, President, National Joint Council of Food Inspection Locals, American Federation of Government Employees (AFL-CIO), Washington, D.C.
   Acc. by: Mr. Dave Rodriguez, AFGE

2. Panel:
   Mr. Stanley J. Emerling, Executive Vice President, National Association of Meat Purveyors, McLean, Virginia
   Mr. Bill Wheat, Regional Director, American Association of Meat Processors, Elizabethtown, Pennsylvania
   Mr. Dennis J. Phelan, Director, Legislative Affairs, National Food Processors Association, Washington, D.C.

3. Panel:
   Prof. Robert Rust, Professor of Animal Science, Iowa State University, Ames, Iowa
   Dr. Robert L. Henrickson, Professor, Oklahoma State University, Stillwater, Oklahoma

Tuesday, April 29, 1986
Livestock, Dairy, and Poultry
  Subcommittee
Public Hearing - p.m.
Review impact of dairy termination
  program; H.R. 4683, Processed
  Products Inspection Improvement Act
  general meat inspection issues

Acting Chairman Stenholm called the meeting to order for the purpose of receiving additional testimony on the above-cited issues. The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Acting Chairman Stenholm advised that the hearing record would remain open for 10 legislative days in order to receive additional statements for the record.

During the proceedings one recess was taken at 3:40 p.m. to enable Members to respond to a recorded vote on the House Floor. At 4:20 p.m. the meeting was adjourned subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 29, 1986

(Sub) Committee: Subcommittees on Department Operations, Research, and Foreign Agriculture, and Investigations and Oversight

Joint Public Hearing

met at 9:45 a.m. o'clock, in Room 2318 Rayburn House Office Building

for the purpose of Review of USDA's biotechnology regulatory program

The following Members were present:

Dept. Operations, Res., and For. Agric.	Invest. & Oversight	Members also present:
Mr.	Mr. Volkmer	Mr. Daub
Mr. Bedell	Mr. Morrison	Mr.
Mr. Penny	Mr. Packard	Mr.
Mr. Volkmer	Mr. Sensenbrenner	Mr.
Mr. Morrison	Mr.	Mr.
Mr. Evans, Iowa	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Agriculture Committee Staff Present:

John E. Hogan, Minority Counsel
James Davis, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Kathy Hughes, Staff Assistant
Gary Mitchell, Minority Consultant

Science and Technology Committee Staff Present:

Greg Simon, Counsel
Lena Lawrence, Financial Clerk
Carol Radabaugh, Republican Technical Consultant

Witnesses:

1. Panel:

   Saul Kit, Ph.D., Head, Vision of Biotechnical Virology, Baylor College of Medicine and Novagene, Inc., Houston, Texas

   Dr. Michael Bartkoski, Vice President for Operations, Biologics Corporation, TechAmerica Group, Inc.

2. Dr. Orville Bentley, Assistant Secretary for Science and Technology, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Alan Tracy, Marketing and Inspection Division, U.S. Department of Agriculture
   Mr. Tom Walls, Assistant General Counsel, Marketing and Inspection Division, U.S. Department of Agriculture

3. Mr. Jeremy Rifkin, President, Foundation on Economic Trends, Washington, D.C.

Tuesday, April 29, 1986
Joint Public Hearing
Subcommittees on Department
Operations, Research, and
Foreign Agriculture,
Committee on Agriculture,
and Investigations and
Oversight, Committee on
Science and Technology
Review of USDA's biotechnology
regulatory program

Chairman Volkmer called the meeting to order at 9:45 a.m. for the purpose of receiving testimony on various issues regarding the U.S. Department of Agriculture's biotechnology regulatory program, as follows: regulatory framework for biotechnology; pseudorabies and impact on pork industry; pseudorabies vaccine; bovine herpesvirus vaccine; recombinant DNA technology and guidelines; violation of licensing regulations during testing procedures; field testing of microbial pesticides; USDA licensing of "omnivac," a genetically engineered pseudorabies vaccine; and Foundation on Economic Trends lawsuit filed against USDA because of regulatory procedures.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the above-cited subjects. Following their presentations, the witnesses were questioned by Members of both Subcommittees.

During the proceedings one recess was taken at 1:35 p.m. to enable Members to respond to recorded votes on the House floor. Chairman Volkmer adjourned the meeting at 2:05 p.m, subject to the call of the Chair.

Kathy Hughes
Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, May 6, 1986

(~~Sub~~) Committee: Full

Business Meeting

met at 3:20 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering agricultural proposals to omnibus trade legislation

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Weaver
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers

Mr. Evans (Ill.)
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Chappie
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Anita Brown, Staff Assistant
Howard Conley, Staff Economist
Tim Galvin, Subcommittee Staff Director
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

Present to respond to Member's questions:

1. Mr. Doug Bellis, Office of Legislative Counsel, U.S. House of Representatives
2. Mr. Pat Broderick, Office of Legislative Counsel, U.S. House of Representatives
3. Mr. Leo Mayer, Associate Administrator, Foreign Agricultural Service, U.S. Department of Agriculture

Tuesday, May 6, 1986
Full Committee
Business Meeting
Agricultural proposals to omnibus
trade legislation

Action Taken:

-- By voice vote Weaver amendment limiting softwood lumber imports not agreed to.

-- By voice vote Coelho language on Class I and Class II milk agreed to.

-- By voice vote Hopkins amendment on material interference in tobacco program adopted.

-- By voice vote Hopkins language limiting duty free treatment agreed to.

-- Panetta-Stallings language targeting countries under the Export Enhancement Program approved by voice vote.

-- By voice vote English reciprocity language adopted.

-- By voice vote Marlenee amendment calling for a moratorium on beef imports agreed to.

-- By voice vote Daschle language amending the Meat Import Act to include pork and cattle adopted.

-- By voice vote Stenholm amendment adding lamb to Daschle proposal agreed to.

-- Penny-Daschle language on inspection standards for grain exports approved by voice vote.

-- By voice vote Daschle amendment providing for inventory of all agricultural imports approved.

-- By voice vote Bruce-Schuette language on ethyl alcohol use as fuel approved.

Chairman de la Garza called the meeting to order and advised that there was a mandate from the leadership that the appropriate Committees meet and submit legislation to be incorporated into an omnibus trade bill. The Chairman called the Members' attention to a discussion draft and explanation (copies attached) which he had asked staff to prepared based on recommendations of the Export Commission. He also noted the attached summaries of actions taken by the other Committees of jurisdiction--Ways and Means and Foreign Affairs.

Tuesday, May 6, 1986
Full Committee
Business Meeting
Agriculture proposals to omnibus trade legislation

The Chairman suggested that the Committee might wish to use the discussion draft as a markup vehicle and discussion occurred. A number of Members expressed concern about using the draft since the Committee had not had an opportunity to examine the proposals. Without objection, the Committee decided to proceed by offering amendments which would then be incorporated into a clean bill at the conclusion of the markup.

Mr. Weaver offered the attached amendment which would limit softwood lumber imports. Discussion occurred and by a voice vote the amendment was not agreed to.

Mr. Coelho offered the attached amendment which would provide that milk produced by foreign-owned dairies financed by or with the use of industrial revenue bonds shall not be classifed as Class I and Class II milk for purposes of the milk price support program or the milk marketing program under the Agricultural Marketing Agreement Act.

Discussion occurred and Mr. Huckaby suggested that there be a prohibition from financing through industrial revenue bonds for new or future expansions. Discussion continued and Mr. Coelho asked unanimous consent that staff add any necessary grandfather language. There was no objection whereupon the Coelho amendment was adopted by a voice vote.

Mr. Hopkins offered the attached language which would add a section to require that the impact of increased producer assessments, required by the no-net-cost tobacco program, be a factor in determining material interference in section 22 investigations. Discussion occurred and by a voice vote the proposal was agreed to.

Mr. Hopkins offered a second proposal which would express the sense of Congress that the U.S. not extend the benefits of duty-free treatment under the generalized system of preferences to countries who have unfair or discriminatory policies which block exports of U.S. agricultural products to such countries. Discussion occurred and by a voice vote the language was approved.

Tuesday, May 6, 1986
Full Committee
Business Meeting
Agriculture proposals to omnibus
trade legislation

Mr. Panetta, on behalf of himself and Mr. Stallings, offered the attached language relating to the Export Enhancement Program. The proposal would target certain countries and require a monthly report on the countries that have been targeted. Discussion occurred and by a voice vote the language was approved.

Mr. English offered the attached language providing for reciprocity. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Marlenee offered the attached amendment calling for a moratorium on beef imports until a study is completed to determine if live cattle and fresh, chilled or frozen beef is being imported from Canada in such quantities as to cause injury to the domestic industry. Discussion occurred and by a voice vote the proposal was agreed to.

Mr. Daschle offered the attached language which would amend the Meat Import Act to include live and processed pork, as well as cattle. Discussion occurred and by a voice vote the language was adopted.

Mr. Stenholm stated he had a similar proposal to include lamb products (copy attached). Discussion occurred and by a voice vote the language was agreed to. Staff was given permission to make any technical corrections necessary to add the proposal to the previously-approved Daschle amendment.

Mr. Penny, on behalf of himself and Mr. Daschle, offered the attached proposal concerning inspection standards for grain exports. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Daschle offered the attached language which would give the Secretary of Agriculture authority to inventory all agricultural imports and analyze the results. Discussion occurred and by a voice vote the language was agreed to.

Mr. Bruce, on behalf of himself and Mr. Schuette, offered the attached language on ethyl alcohol and mixtures thereof for fuel use. Discussion occurred and by a voice vote the proposal was approved.

Tuesday, May 6, 1986
Full Committee
Business Meeting
Agriculture proposals to omnibus trade legislation

At 5:05 p.m. the meeting was adjourned to reconvene at 9:30 a.m. on Wednesday, May 7, for consideration of legislation to reauthorize the Commodity Futures Trading Commission, and at 1:30 p.m. for continued consideration of agricultural trade issues.

Glenda Temple
Glenda Temple

MDB717

HLC

[Discussion Draft]
[4 May 1986]
[11:00 am]

99TH CONGRESS
2D SESSION

H. R. ____

IN THE HOUSE OF REPRESENTATIVES

Mr. ______________ introduced the following bill; which was referred to the Committee on ______________________

A BILL

To promote the maintenance and development of markets for United States agricultural producers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Agricultural Trade Policy Act of 1986''.

TITLE I--AGRICULTURAL TRADE POLICY

SEC. 101. FAIR WORLD TRADE IN AGRICULTURE.

(a) FINDINGS.--Congress finds that--

(1) United States agricultural producers have a legitimate right and interest in having full access to international markets for their agricultural commodities and products;

(2) progress toward the goal of full access to markets and fair world trade in agricultural commodities and products has been substantially eroded in recent years as a consequence of a worldwide escalation of unfair trade practices;

(3) unfair practices in agricultural trade have harmed, and threaten further harm to, United States agricultural producers by weakening markets for United States basic and value-added agricultural commodities and products;

(4) policies of governments, rather than market forces, increasingly dictate the terms and conditions under which agricultural trade and competition take place; and

(5) cooperation with other nations is needed to

update and clarify the rules governing agricultural trade to--

(A) stem the tide of anti-free market sentiment;

(B) open markets for United States basic and value-added agricultural commodities and products;

(C) limit restrictions that inhibit sales of United States basic and value-added agricultural commodities and products, including arbitrary and capricious quality and health regulations that represent nontariff trade barriers;

(D) equitably limit the use of agricultural export subsidies and other predatory export trade practices; and

(E) improve multilateral agricultural trade processes and procedures to provide for stricter discipline and enforceability.

(b) SENSE OF CONGRESS.--It is the sense of Congress that, to facilitate the preservation and development of domestic and export markets for United States agricultural producers and ensure fair trade in agricultural commodities and their products, the President should negotiate with the other parties to the General Agreement on Tariffs and Trade (hereinafter in this section referred to as ``GATT´´) to revise GATT rules and codes with the goal of reducing agricultural export subsidies and other unfair practices in agricultural trade, tariffs, and nontariff barriers to trade. United States representatives to any GATT negotiations should strive to negotiate--

(1) the elimination or substantial reduction of constraints to fair and open trade in basic and value-added agricultural commodities, and products including tariffs, quantity limitations, nontariff trade barriers, and predatory and unfair export practices;

(2) improved and expedited dispute arbitration and settlement mechanisms within the framework of GATT;

(3) approval of tighter GATT enforcement powers, and clarification of criteria relating to unfair practices contained in the Subsidies and Countervailing Duties Code;

(4) improved access of United States agricultural commodities and products to foreign markets;

(5) expansion of GATT applicability to include services and other aspects of trade not currently addressed by GATT, particularly as they pertain to agricultural trade;

(6) extension of GATT applicability to state trading activities;

(7) the achievement of internationally approved and recognized scientific and technical standards governing quality, health, and quarantine standards applicable to

agricultural commodities and products; and

(8) retention of appropriate safeguards and enforcement capabilities to ensure greater cooperation in agricultural trade matters.

SEC. 102. FISCAL AND MONETARY POLICY COORDINATION.

(a) FINDINGS.--Congress finds that--

(1) the volume and value of United States agricultural exports have significantly declined in recent years, resulting in significant adverse effects on the economic well-being of United States agricultural producers;

(2) the reduction in such exports is due, in part, to the implementation of fiscal and monetary policies of the Federal Government without due consideration of their effect on the domestic and international environment in which agricultural trade must take place; and

(3) improved overall coordination of fiscal and monetary policies is required to ensure a consistent and orderly environment for foreign trade in United States agricultural commodities and products.

(b) SENSE OF CONGRESS.--It is the sense of Congress that--

(1) the Federal budget deficit should be eliminated while giving fair consideration to the need for maintaining income protection for domestic producers of

agricultural commodities;

(2) actions should be taken to negotiate with other major currency nations to stabilize fluctuations in exchange rates and establish a value of the United States dollar that complements fair and competitive trade in United States agricultural commodities and products;

(3) policy should be formulated that will provide incentives for additional investments in agricultural research and production capacity that enhance the productivity and competitiveness of United States producers of agricultural commodities and products; and

(4) additional efforts should be undertaken to coordinate fiscal, monetary, and tax policies to provide a favorable economic climate for international trade in United States agricultural commodities and products.

SEC. 103. FOOD SECURITY ACT IMPLEMENTATION.

(a) REAFFIRMATION OF FINDINGS AND DECLARATIONS.--Congress reaffirms its findings and agricultural trade policy declarations contained in section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p).

(b) SENSE OF CONGRESS.--It is the sense of Congress that the trade provisions of the Food Security Act of 1985 should be fully implemented by the Secretary of Agriculture as soon as practicable to enhance the ability of United States producers of agricultural commodities to provide such commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply.

(c) CONSIDERATION SHOULD BE GIVEN TO PARTICIPATION OF ALL INTERESTED FOREIGN PURCHASERS.--In carrying out the program established by section 1127 of the Food Security Act of 1985 (7 U.S.C 1736v), the Secretary of Agriculture, to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, should consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and products and who continue to purchase such commodities and products on an annual basis in quantities greater than the level of purchases in a previous representative period.

SEC. 104. EXPORT COMMISSION REPORT.

(a) FINDINGS.--Congress finds that--

(1) under Public Law 98-412, the Agricultural Trade and Export Policy Commission was established to conduct a study of the agriculture-related trade and export policies, programs, and practices of the United States;

(2) the Commission will make a report containing the final results of its study and its recommendations therefrom by July 1, 1986; and

(3) members of the Commission have worked diligently

to make a thorough examination of the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies.

(b) SENSE OF CONGRESS.--It is the sense of Congress that, on the submission of the final report of the Agricultural Trade and Export Policy Commission--

(1) the President should give due consideration to the findings and recommendations contained in the report, and promptly report to Congress a comprehensive evaluation of the proposals contained in such report; and

(2) expeditious action should be taken to implement those legislative proposals of the Commission that will enhance the ability of United States agricultural producers to compete favorably in the world market.

SEC. 105. DESIGNATION OF USDA AS LEAD AGENCY.

The United States Department of Agriculture is designated the lead agency within the Federal Government with respect to all matters concerning agricultural trade and agricultural trade policy, except that--

(1) the United States Trade Representative shall have overall authority to direct international trade activities of the Federal Government and to perform functions relating to trade assigned him by law;

(2) the United States Department of Commerce and the

International Trade Commission shall continue to exercise their existing responsibilities and authority with respect to the regulation of United States imports.

SEC. 106. REVIEW, REPORTING, AND COORDINATION BY THE SECRETARY OF AGRICULTURE.

With respect to any Federal agency action or program that affects, or potentially affects, agricultural trade or agricultural trade policy, the Secretary of Agriculture shall--

(1) review the extent to which such actions and programs--

(A) contribute to expanded United States agricultural exports;

(B) ensure the adoption of trade agreements that are fair to, and responsive to the needs of, United States agricultural producers;

(C) are consistent with the goals, objectives, and program recommendations contained in the most recent President's Annual Long Term Agricultural Trade Strategy Report; and

(D) if they involve import restrictions, will adversely affect United States agricultural exports;

(2) every six months, report the findings of the Secretary's review of such actions and programs to--

(A) the Committees on Agriculture, Nutrition, and

Forestry; Foreign Relations; and Finance, of the Senate; and

(B) the Committees on Agriculture; Foreign Affairs; and Ways and Means, of the House of Representatives; and

(3) through such mechanism as the President shall establish by executive order, consult with the appropriate official of the other agency to coordinate such actions and programs with the programs of the Department of Agriculture and harmonize such actions and programs with the agricultural trade policy contained in section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p).

TITLE II--IMPROVEMENT OF AGRICULTURAL MARKET DEVELOPMENT AND TRADE POLICY ACTIVITIES

SEC. 201. PURPOSE OF TITLE.

It is the purpose of this title to enhance the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers participate in international agricultural trade, by reorganizing and strengthening the operations of the Department of Agriculture in these areas.

SEC. 202. REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE.

(a) UNDER SECRETARY FOR TRADE AND INTERNATIONAL

AFFAIRS.--(1) The President, by and with the advice and consent of the Senate, shall appoint in the Department of Agriculture an Under Secretary of Agriculture for Trade and International Affairs (hereinafter in this title referred to as the ``Under Secretary for Trade'').

(2) The Under Secretary for Trade shall--

(A) assume the duties relating to international affairs of the Under Secretary of Agriculture for International Affairs and Commodity Programs;

(B) serve as a member of--

(i) the Board of Directors of the Commodity Credit Corporation;

(ii) the Trade Policy Review Group; and

(iii) the Subcommittee on Food Aid of the Development Coordination Committee; and

(C) direct--

(i) all programs and duties performed by the Office of International Cooperation and Development;

(ii) all programs or duties performed by the International Transportation Service Branch of the Office of Transportation; and

(iii) such programs or duties of the Forest Service, the Soil Conservation Service, the Food Safety and Inspection Service and the Animal and Plant Health Inspection Service as the Secretary of

Agriculture finds to be related to agricultural export sales, market development, and relevant technical assistance; and

(D) perform such other functions and duties as may be required by law or prescribed by the Secretary of Agriculture.

(b) UNDER SECRETARY FOR COMMODITY PROGRAMS.--(1) The President, by and with the advice and consent of the Senate, shall appoint in the Department of Agriculture an Under Secretary of Agriculture for Commodity Programs.

(2) The Under Secretary of Agriculture for Commodity Programs shall--

(A) assume the duties relating to commodity programs of the Under Secretary of Agriculture for International Affairs and Commodity Programs;

(B) serve as a member of the Board of Directors of the Commodity Credit Corporation; and

(C) perform such other functions and duties as may be required by law or prescribed by the Secretary of Agriculture.

(c) CONFORMING REPEAL.--Section 501(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 2211a(a)) is repealed.

(d) ADDITIONAL ASSISTANT SECRETARIES OF AGRICULTURAL.--The President, by and with the advice and consent of the Senate, may appoint in the Department of Agriculture up to two additional Assistant Secretaries of Agriculture to assist the Under Secretaries created by this Act.

SEC. 203. CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended--

(1) in section 5314, by striking out

``Under Secretary of Agriculture for International Affairs and Commodity Programs.''

and inserting in lieu thereof the following:

``Under Secretary of Agriculture for Commodity Programs.

``Under Secretary of Agriculture for Trade and International Affairs.''; and

(2) in section 5315, by striking out ``Assistant Secretaries of Agriculture (7).'' and inserting in lieu thereof ``Assistant Secretaries of Agriculture (9)''.

SEC. 204. TRANSFER OF ENTITIES TO THE FOREIGN AGRICULTURAL SERVICE.

The International Economics Division of the Economic Research Service and the World Agricultural Outlook Board shall be entities within the Foreign Agricultural Service.

SEC. 205. ESTABLISHMENT OF THE GENERAL SALES MANAGER'S OFFICE.

(a) ESTABLISHMENT.--There is established in the Foreign

Agricultural Service of the Department of Agriculture an office to be known as the ``Office of the General Sales Manager''. The Office of the General Sales Manager shall be under the directions of the Under Secretary for Trade.

(b) DUTIES.--The Office of the General Sales Manager shall assume responsibility for all programs or duties performed by the Foreign Agricultural Service with respect to--

(1) export sales;

(2) market development;

(3) agricultural trade offices;

(4) the requirements of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(5) the requirements of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

(6) food aid.

SEC. 206. ESTABLISHMENT OF OFFICE TO MONITOR TRADE PRACTICES.

(a) ESTABLISHMENT WITHIN THE USDA.--The Secretary of Agriculture shall establish an office within the Department of Agriculture to carry out the duties described in subsection (b) under the direction of the Under Secretary for Trade.

(b) DUTIES.--The office established under subsection (a) shall--

(1) monitor and study trade practices carried out by other nations to promote the export of agricultural commodities and products; and

(2) submit quarterly reports of its findings to the Secretary of Agriculture.

(c) REPORTING BY THE SECRETARY.--(1) Within 15 days after receiving a report under subsection (b) the Secretary of Agriculture shall submit to the committees listed in paragraph (2) any report received under subsection (b)(2), together with the Secretary's findings and recommendations with respect to the level of subsidies provided by other nations and the United States to promote the export of agricultural commodities and products.

(2) Items described under paragraph (1) shall be reported to--

(A) the Committees on Agriculture, Nutrition, and Forestry; Foreign Relations; and Finance, of the Senate; and

(B) the Committees on Agriculture; Foreign Affairs; and Ways and Means, of the House of Representatives.

SEC. 207. ESTABLISHING AN OFFICE TO PROVIDE ASSISTANCE TO VICTIMS OF UNFAIR TRADE PRACTICES.

(a) ESTABLISHMENT WITHIN THE USDA.--The Secretary of Agriculture shall establish an office within the Department of Agriculture to carry out the duties described in subsection (b) under the direction of the Under Secretary for Trade.

(b) DUTIES.--The office established under subsection (a) shall take the following actions with respect to United States citizens and organizations damaged by unfair agricultural trade practices and polices:

(1) The Office shall assist such persons in preparing cases before--

(A) the United States Trade Representative;

(B) the International Trade Commission;

(C) the United States Department of Commerce;

(D) the International Court of Trade; and

(E) any other similar agency.

(2) The Office shall provide and update information to such persons regarding the incidence and severity of such practices and policies.

(3) The Office shall inform such persons of any adverse effect on them caused by such practices and policies of which they are not aware.

(c) REPORT.--The Secretary of Agriculture shall submit, with the information described in section 206, a report of the assistance provided under this section.

SEC. 208. PROVISION OF TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 209. LONG TERM AGRICULTURAL TRADE STRATEGY REPORTS.

(a) PREPARATION; MATTERS TO BE INCLUDED.--(1) The Secretary of Agriculture shall prepare, and the President shall submit, together with the budget for each fiscal year, a Long Term Agricultural Trade Strategy Report, establishing recommended policy and spending goals for United States agricultural trade and exports for 1-year, 5-year, and 10-year periods, beginning on October 1 of the next fiscal year. Each such report shall include the following:

(A) Findings and recommendations with respect to trends in the comparative position of the United States and foreign countries in the export of agricultural commodities and the products thereof, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products.

(B) Findings and recommendations with respect to new developments in research conducted by foreign countries that may affect the competitiveness of United States agricultural commodities and the products thereof.

(C) Findings and recommendations with respect to the marketing in nonmarket economies of United States agricultural commodities and the products thereof.

(D) The agricultural trade goals for every agricultural commodity and value-added product produced in the United States, for the period in question, expressed in both physical volume and monetary value.

(E) Recommended Federal policy and programs to achieve such goals.

(F) Recommended levels of Federal spending on international programs and activities of the United States Department of Agriculture to meet the agricultural trade goals.

(G) Recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet the agricultural trade goals.

(H) Recommended long-term strategies for growth in agricultural trade and exports--

(i) taking into account United States domestic competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(ii) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(2) Provisions of each Long Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to the Congress for such programs for such fiscal year, and shall be submitted in addition to the budget request for other programs of the Department of Agriculture for such fiscal year.

(3) The President shall include in each Long Term Agricultural Trade Strategy Report recommendations for such changes in legislation governing international programs of the Department of Agriculture as are required to meet the long-term goals established in the Report.

(b) IDENTIFICATION OF CHANGES THAT MAY AFFECT PREVIOUS REPORTS.--The President, in each succeeding annual Long Term Agricultural Trade Strategy Report after the first such report, shall identify any such recommendations that might modify the long term policy contained in any previous such report.

(c) ESTABLISHMENT OF OFFICE.--The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Agricultural Trade Policy Planning and Evaluation. Such office shall coordinate the preparation of the President's Long Term Agricultural Trade Strategy Report.

SEC. 210. DECLARATION OF POLICY RESPECTING FOOD AID AND MARKET DEVELOPMENT.

It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs, in a manner consistent with their humanitarian goals, to develop markets for United States basic and value-added agricultural commodities and products.

SEC. 211. REPORTING BY THE SECRETARY OF AGRICULTURE.

(a) REPORTING ON CERTAIN PROGRAMS.--The Secretary of Agriculture shall report annually to Congress on the extent that food aid and agriculturally-related foreign economic assistance programs, other than direct feeding or emergency food aid, that are administered by Federal agencies or by non-governmental entities serve direct market development objectives for United States basic and and value-added agricultural commodities and products.

(b) SCOPE OF REPORTING REQUIREMENT.--The programs referred to in subsection (a) include--

(1) programs under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) programs under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) and the Food for Progress Act

of 1985 (7 U.S.C. 1736o); and

(3) technical and economic assistance programs carried out by United States Agency for International Development.

SEC. 212. ESTABLISHMENT OF OFFICE OF FOOD AID POLICY.

(a) ESTABLISHMENT.--There is established in the United States Department of Agriculture the Office of Food Aid Policy (hereinafter in this section referred to as the ``Office'').

(b) DIRECTOR.--The Secretary of Agriculture shall appoint a director of the Office who shall--

(1) serve under the direction of the General Sales Manager;

(2) develop in cooperation with the Director of the Office of Agricultural Trade Policy Planning and Evaluation a comprehensive strategy for coordinating agriculturally-related foreign economic assistance, food aid, and market development objectives for United States basic and value-added agricultural commodities and products;

(3) monitor the compliance of programs and policies of Federal agencies and related entities with the market development objectives of the Department of Agriculture; and

(4) serve as the principal staff representative of

the Secretary of Agriculture in deliberations of the staff working group of the Subcommittee on Food Aid of the Development Coordination Committee.

SEC. 213. AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended by inserting after section 102 (7 U.S.C. 1702) the following:

``SEC. 102A. To carry out the policies set forth in section 2 of this Act, the the Secretary may add to the volume of commodities provided through any agreement made under this title additional commodities from stocks of the Commodity Credit Corporation not to exceed 10 percent of the volume of commodities to be provided under such agreement before such addition is made. Such additional commodities shall be sold for foreign currencies, with the proceeds of such sale to be used by cooperator organizations to cover local market development costs.''.

SEC. 214. INCREASING NUMBER OF USDA REPRESENTATIVES OVERSEAS.

To improve formulation and implementation of trade policy and international economic information, the Secretary of Agriculture is encouraged to expand the number of agricultural counselors, attaches, assistant attaches, and other diplomatic representatives of the Department of Agriculture overseas. The Secretary of Agriculture, to the maximum extent possible, shall assign agricultural marketing specialists or agricultural trade officers in overseas posts that offer market potential for United States agricultural commodities or products thereof and that are not currently served by an Agricultural Trade Office, agricultural trade officer, or agricultural marketing specialist.

SEC. 215. EXCLUSION OF CERTAIN CONTRACT PERSONNEL FROM BEING COUNTED TOWARD PERSONNEL CEILINGS.

Individuals who are not officers or employees of the Department of Agriculture with whom the Secretary of Agriculture contracts for personal services abroad shall not be counted toward any personnel ceiling for the Department of Agriculture or the Foreign Agricultural Service established by the Director of the Office of Management and Budget.

TITLE III--DOMESTIC MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES AND PRODUCTS

SEC. 301. INCLUSION OF LAMB PRODUCTS INCLUDED IN MEAT IMPORT ACT OF 1979.

Section 2(b)(2) of the Meat Import Act of 1979 is amended--

(1) by striking out ``and'' at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following

new subparagraph:

``(C) item 106.30 (relating to fresh, chilled, or frozen lamb meat); and''.

SEC. 302. CONSIDERATION OF HIGH SEASONAL MARKET PENETRATION IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

Section 771(7)(F)(i)(III) of the Tariff Act, 1930 (19 U.S.C. 1677(7)(F)(i)(III)) is amended by inserting ``, and any seasonal increase in market penetration'' after ``level''.

SEC. 303. STUDY RELATING TO HONEY.

(a) STUDY.--The Secretary of Agriculture shall conduct a study to determine whether imports of honey tend to interfere with or render ineffective the honey price support program of the United States Department of Agriculture.

(b) REPORT.-- Not later than 60 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 304. ROSE STUDY AND REPORT.

(a) STUDY.--The Secretary of Agriculture, in conjunction with the United States Trade Representative, not later than 120 days after the date of enactment of this Act, shall complete a study to determine--

(1) the effect of rose imports into the United States

on the domestic rose growing industry; and

(2) the extent and nature of any foreign subsidies provided to such imports.

(b) REPORT.--The Secretary shall report the results of the study conducted under subsection (a), as soon as the study is completed, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Summary of Proposed Agricultural Trade Bill

Section 101(a) proposes various Congressional findings concerning fair trade in agricultural commodities. Section 101(b) would express the sense of Congress concerning GATT negotiations.

Section 102(a) would make certain Congressional findings to establish that better coordination of fiscal and monitary policy would benefit U.S. agricultural producers in agricultural trade. Section 102(b) proposes to express the sense of Congress that the Federal budget deficit should be eliminated while giving fair consideration to the need of maintaining income protection for domestic agricultural producers.

Section 103 contains three different provisions regarding the implementation of the Food Security Act. Section 103(c) affects the implementation of the export enhancement program.

Section 104(a) would make Congressional findings regarding the work of the Agricultural Trade and Export Policy Commission.

Section 105 would designate the USDA as the lead agency within the Federal Government with respect to all matter concerning agricultural trade.

Section 106 would require the Secretary to review actions and programs of other Federal agencies that may affect agricultural trade.

Section 202(a) would establish within the USDA the position of Under Secretary for Trade and International Affairs. Section 202(b) would establish within the USDA the position for Under Secretary of Commodity Programs. Section 202(c) would authorize the President to appoint a maximum of two additional Assist Secretaries.

Section 204 would transfer the International Economics Division of ERS and the World Agricultural Outlook Board to the FAS.

Section 205 would establish in USDA the Office of the General Sales Manager.

Section 206 would establish an office in USDA to monitor and study agricultural trade practices carried out by other nations.

Section 207 would require the Secretary to establish an office to undertake actions to help citizens damaged by unfair trade practices.

Section 208 would require the Secretary to provide technical assistance to the USTR in trade negotiations.

Section 209 would require a Long Term Agricultural Trade Strategy Report.

Section 210 states that it is the policy of the U.S. to use food aid and agriculturally-related foreign economic assistance to develop markets for U.S. agricultural commodities.

Section 211 and Section 212 modify food aid programs to enhance agricultural trade.

Section 213 would allow the Secretary to provide additional commodities to recipients of assistance under P.L. 480 title I agreements not to exceed 10% of the amount provided under the agreement, to cover market development costs of cooperators.

Section 214 encourages the Secretary to expand the number of agricultural counselors and attaches.

Section 215 deals with personnel hiring authority by USDA in foreign countries.

Section 301 amends the Meat Import Act to include lamb.

Section 302 amends the Tariff Act to allow for consideration of seasonal increase in market penetration.

Section 303 would require a honey import study.

Section 304 would require a rose import study.

Summary
Discussion Draft
The Agricultural Trade Policy Act of 1986

Title I--Agricultural Trade Policy

Section 101(a) proposes various congressional findings concerning fair trade in agricultural commodities and products. Specifically, under this section, Congress would find that U.S. agricultural producers have a legitimate right and interest in having full access to international markets for their commodities and products; progress toward the goal of full access to markets and fair world trade in agricultural commodities and products has been substantially eroded in recent years as a consequence of a worldwide escalation of unfair trade practices; unfair practices in agricultural trade have harmed, and threaten further harm to, U.S. agricultural producers by weakening markets for their commodities and products; policies of governments, rather than market forces, increasingly dictate the terms and conditions under which agricultural trade and competition take place; and cooperation with other nations is needed to (1) update and clarify the rules governing agricultural trade to stem the tide of anti-free market sentiment, (2) open markets for the U.S. agricultural commodities and products, (3) limit restrictions that inhibit sales of U.S. agricultural commodities and products, including arbitrary and capricious quality and health regulations that represent nontariff trade barriers, (4) equitably limit the use of agricultural export subsidies and other predatory export trade practices, and (5) improve multilateral agricultural trade processes and procedures to provide for stricter discipline and enforceability.

Section 101(b) would express the sense of Congress that to facilitate the preservation and development of domestic and export markets for U.S. agricultural producers and ensure fair trade in agricultural commodities and their products, the President should negotiate with the other parties to the General Agreement on Tariffs and Trade (GATT) to revise GATT rules and codes with the goal of reducing agricultural export subsidies and other unfair practices in agricultural trade, tariffs, and nontariff barriers to trade. Further, U.S. representatives to any GATT negotiations should strive to negotiate the elimination or substantial reduction of constraints to fair and open trade in basic and value-added agricultural commodities, including tariffs, quantity limitations, nontariff trade barriers, and predatory and unfair export practices; improved and expedited dispute arbitration and settlement mechanisms; approval of tighter GATT enforcement powers (with clarification of criteria relating to unfair practices); improved access of U.S. agricultural commodities and products to foreign markets; expansion of GATT applicability to include services and other aspects of trade not currently addressed by GATT; extension of GATT applicability to state trading activities; the achievement of internationally approved and recognized scientific and technical standards governing quality, health, and quarantine standards applicable to agricultural commodities and products; and retention of appropriate safeguards and enforcement capabilities.

Section 102(a) would make certain congressional findings to establish that better coordination of fiscal and monetary policy would benefit U.S. agricultural producers in agricultural trade. Specifically, under this section Congress would find that the volume and value of U.S. agricultural exports have significantly declined in recent years, resulting in significant adverse effects on the economic well-being of U.S. agricultural producers; the reduction in such exports is due, in part, to the implementation of fiscal and monetary policies of the Federal Government without due consideration of their effect on the domestic and international environment in which agricultural trade must take place; and improved overall coordination of fiscal and monetary policies is required to ensure a consistent and orderly environment for foreign trade in the U.S. agricultural commodities and products.

Section 102(b) proposes to express the sense of Congress that the Federal budget deficit should be eliminated while giving fair consideration to the need for maintaining income protection for domestic producers of agricultural products; actions should be taken to negotiate with other major currency nations to stabilize fluctuations in exchange rates and establish a value of the dollar that complements fair and competitive trade; policy should be formulated that will provide incentives for additional investments in agricultural research and production capacity that enhance the productivity and competitiveness of U.S. producers of agricultural commodities and products; and additional efforts should be undertaken to coordinate fiscal, monetary, and tax policies to provide a favorable economic climate for international trade in U.S. agricultural commodities and products.

Section 103 contains three different provisions regarding the implementation of the Food Security Act of 1985 by the Secretary of Agriculture.

Section 103(a) would reaffirm the findings and agricultural trade policy declarations contained in section 1121 of the Food Security Act of 1985.

Section 103(b) would express the sense of Congress that the trade provisions of the Food Security Act of 1985 should be fully implemented by the Secretary of Agriculture as soon as practicable to enhance the ability of U.S. producers of agricultural commodities to provide those commodities for export at competitive prices, with full assurance of quality and reliability of supply.

Section 103(c) provides that in carrying out the program established by section 1127 of the Food Security Act, the

Secretary of Agriculture, to the extent that agricultural commodities and products are to be provided to foreign purchasers during any fiscal year, should consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased U.S. agricultural commodities and products and who continue to purchase such commodities and products on an annual basis in quantities greater than the level of purchases in a previous representative period.

Section 104(a) would make congressional findings regarding the Agricultural Trade and Export Policy Commission. Specifically, among other findings under Section 104(a) Congress would find that members of the Commission have worked diligently to make a thorough examination of the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies.

Section 104(b) would express the sense of Congress that on the submission of the final report of the Agricultural Trade and Export Policy Commission, the President should give due consideration to the findings and recommendations contained in the report, and promptly report to Congress a comprehensive evaluation of the proposals contained in such report; and expeditious action should be taken to implement those legislative proposals of the Commission that will enhance the ability of U.S. agricultural producers to compete favorably in the world market.

Section 105 would designate the Department of Agriculture as the lead agency within the Federal Government with respect to all matters concerning agricultural trade and agricultural trade policy. The U.S. Trade Representative would have overall authority to direct international trade activities. The Department of Commerce and the International Trade Commission would retain authority and responsibility over the importation of foreign products into the United States.

Section 106 would require the Secretary of Agriculture to review the actions and programs of the Federal agencies that may affect agricultural trade or agricultural trade policy. The Secretary would review the extent to which such actions and programs contribute to expanded U.S. agricultural exports; ensure the adoption of trade agreements that are fair to, and responsive to the needs of, U.S. agricultural producers; are consistent with the goals, objectives, and program recommendations contained in the most recent President's Annual Long Term Agricultural Trade Strategy Report; and if they involve import restrictions, will adversely affect United States agricultural exports.

The Secretary would be required to report the findings of this review to Congress every six months. In addition, through such mechanism as the President established by executive order, the Secretary would consult with the appropriate official of the other agency to coordinate their actions and programs with the programs of the Department of Agriculture and harmonize these actions and programs with the agricultural trade policy contained in section 1121 of the Food Security Act of 1985.

Title II--Improvement of Agricultural Market Development and Trade Policy Activities

Section 201 states that it is the purpose of title II of this proposal to enhance the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting participation by U.S agricultural producers in international agricultural trade, by reorganizing and strengthening the operations of the Department of Agriculture in these areas.

Section 202(a) would establish in the Department of Agriculture the position of Under Secretary for Trade and International Affairs. The Under Secretary for Trade would assume the duties of the current Under Secretary for International Affairs and Commodity Programs relating to international affairs. The Under Secretary for Trade would also serve as a member of the board of directors of the Commodity Credit Corporation; the Trade Policy Review Group; the Subcommittee on Food Aid of the Development Coordination Committee; and perform other duties prescribed by the Secretary of Agriculture. The Under Secretary for Trade would direct all programs and duties performed by the Office of International Cooperation and Development; all programs or duties performed by the International Transportation Service Branch of the Office of Transportation; and such programs or duties of the Forest Service, the Soil Conservation Service, the Food Safety and Inspection Service, and the Animal and Plant Health Inspection Service as the Secretary finds to be related to agriculture export sales, market development, and relevant technical assistance.

Section 202(b) would establish in the Department of Agriculture the position of Under Secretary for Commodity Programs. The Under Secretary for Commodity Programs would assume the duties of the present Under Secretary for International Affairs and Commodity Programs related to commodity programs. The Under Secretary for Commodity Programs would serve as a member of the Board of Directors of the Commodity Credit Corporation, and perform other duties as prescribed by the Secretary of Agriculture.

Section 202(c) would authorize the President to appoint a maximum of two additional Assistant Secretaries of Agriculture to assist the Deputy Under Secretaries of Trade and Commodity Programs.

Section 203 would make conforming amendments to title 5 of the United States Code to provide for the positions created in the Department of Agriculture by the proposal.

Section 204 would transfer the International Economics Division of the Economic Research Service and the World Agricultural Outlook Board to the Foreign Agricultural Service of the Department of Agriculture.

Section 205 would establish in the Foreign Agricultural Service an office to be known as the "Office of the General Sales Manager". The General Sales Manager would act under the direction of the Under Secretary for Trade.

The Office of the General Sales Manager would assume responsibility for all programs or duties performed by the Foreign Agricultural Service with respect to export sales; market development; agricultural trade offices; the requirements of the Public Law 480; the requirements of section 416 of the Agricultural Act of 1949; and food aid.

Section 206 would establish an office within the Department of Agriculture, under the direction of the Under Secretary for Trade, to monitor and study trade practices carried out by other nations to promote the export of agricultural commodities and products; and submit quarterly reports of its findings to the Secretary of Agriculture. Within 15 days after receiving such report the Secretary would be required to submit to Congress the report together with the Secretary's findings and recommendations with respect to the level of subsidies provided by other nations and the United States to promote the export of agricultural commodities and products.

Section 207 would require the Secretary of Agriculture to establish an office with the Department of Agriculture, under the direction of the Under Secretary for Trade, to take certain actions with respect to U.S. citizens and organizations damaged by unfair agricultural trade practices and policies.

The Office would assist persons in preparing cases before the United States Trade Representative; the International Trade Commission; the U.S. Department of Commerce; the International Court of Trade; and any other similar agency.

The Office would provide and update information to such persons regarding the incidence and severity of such practices and policies. The Office would also inform such persons of any adverse effect on them caused by such practices and policies of which they are not aware. The Secretary would be required to submit an annual report of the assistance provided under this section to Congress.

Section 208 would require the Secretary of Agriculture to provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

Section 209 would require the Secretary of Agriculture to prepare, and the President shall submit, together with the budget for each fiscal year, a Long Term Agricultural Trade Strategy Report, establishing recommended policy and spending goals for United States agricultural trade and exports for 1-year, 5-year, and 10-year periods, beginning on October 1 of the next fiscal year. Detailed information would be required in each such report and is described in this section. This section would also require the Secretary to establish within the Department of Agriculture an Office of Agricultural Trade Policy Planning and Evaluation. This office would coordinate the preparation of the President's Long Term Agricultural Trade Strategy Report.

Section 210 states that it is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs, in a manner consistent with their humanitarian goals, to develop markets for U.S. agricultural commodities and products.

Section 211 requires the Secretary of Agriculture to report annually to Congress on the extent that food aid and agriculturally-related foreign economic assistance programs, other than direct feeding or emergency food aid, that are administered by Federal agencies or by non-governmental entities serve direct market development objectives for U.S. agricultural commodities and products.

The programs referred to above include programs under Public Law 480; programs under section 416 of the Agricultural Act of 1949 and the Food for Progress Act of 1985; and technical and economic assistance programs carried out by AID.

Section 212 establishes in the Department of Agriculture the Office of Food Aid Policy. The Secretary would appoint a director of this office to serve under the direction of the General Sales Manager; develop in cooperation with the Director of the Office of Agricultural Trade Policy Planning and Evaluation a comprehensive strategy for coordinating agriculturally-related foreign economic assistance, food aid, and market development objectives for U.S. agricultural commodities and products; monitor the compliance of programs and policies of Federal agencies and related entities with the market development objectives of the Department of Agriculture; and serve as the principal staff representative of the Secretary in deliberations of the staff working group of the Subcommittee on Food Aid of the Development Coordination Committee.

Section 213 amends Title I of Public Law 480 to provide that in order to carry out the policies provided in section 2 of that law, the Secretary could add to the volume of commodities provided through any agreement made under title I additional commodities from stocks of the Commodity Credit Corporation not to exceed 10 percent of the volume of commodities to be provided under such agreement before such addition is made. The additional commodities could be sold for foreign currencies, with the proceeds to be used by cooperator organizations to cover market development costs.

Section 214 encourages the Secretary of Agriculture, in order to improve formulation and implementation of trade policy and international economic information, to expand the number of agricultural counselors, attaches, assistance attaches, and other diplomatic representatives of the Department of Agriculture overseas. These agricultural marketing specialists or agricultural trade officers would be assigned in overseas posts that offer market potential for U.S. agricultural commodities or products and that are not currently served by an Agricultural Trade Office, agricultural trade officer, or agricultural marketing specialist.

Section 215 provides that individuals who are not officers or employees of the Department of Agriculture with whom the Secretary of Agriculture contracts for personal services abroad will not be counted toward any personnel ceiling for the Department of Agriculture or the Foreign Agricultural Service established by the Director of the Office of Management and Budget.

Title III--Domestic Markets for United States Agricultural Commodities and Products

Section 301 amends the Meat Import Act of 1979 to include fresh, chilled or frozen lamb meat within the overall import ceilings under that act.

Section 302 would amend the Tariff Act of 1930 to allow for the consideration any seasonal increase in market penetration in antidumping and countervailing duty cases.

Section 303 would require the Secretary of Agriculture to conduct a study to determine whether imports of honey tend to interfere with or render ineffective the honey price support program of the U.S. Department of Agriculture. The Secretary would report the results of this study to the agriculture committees of Congress not later than 60 days after the date of the enactment of the proposal.

Section 304 would require the Secretary of Agriculture, in conjunction with the United States Trade Representative, to complete a study to determine the effect of rose imports into the United States on the domestic rose growing industry; and the extent and nature of any foreign subsidies provided to such imports. The study would be required to be completed not later than 120 days after the date of enactment of the proposal.

The Secretary will report the results of the study, as soon as the study is completed, to the agriculture committees of Congress.

OUTLINE AND SUMMARY OF CERTAIN MAJOR PROVISIONS OF THE TRADE POLICY REFORM LEGISLATION

(As Tentatively Approved by the
Committee on Ways and Means May 1, 1986)

TITLE I--TRADE POLICY REFORM

Enforcement of United States Rights Under Trade Agreements and Response to Certain Foreign Trade Practices (Subtitle A)

-- Section 301 Reform (Chapter 1): Section 301 of the Trade Act of 1974 provides for action by the President as necessary to enforce the rights of the United States under any trade agreement or to respond to any unjustifiable, unreasonable, or discriminatory act of another country that burdens United States commerce.

The bill will transfer, from the President to the United States Trade Representative, the authority to make determinations of whether foreign practices meet section 301 criteria. Also, the bill will make section 301 action mandatory for certain foreign trade agreement violations. However, the bill also will add a provision to the 1974 Trade Act stating that, before taking any action under section 301 that restricts United States imports, the President must take into account the likely effect of the import restriction on U.S. agricultural exports; and any decision by the President to take import-restrictive actions must identify the likely effect of such actions on agricultural exports.

The bill also will require the United States Trade Representative to initiate a section 301 investigation on any act of a foreign country (identified in the annual trade barrier report) that has a significant adverse effect on U.S. exports and is a likely violation of U.S. rights. The requirement would apply only if U.S. exports would not be adversely affected by the section 301 action, initiation of the investigation is in the United States economic interest, and consultations with the domestic interests affected determine that section 301 negotiations likely will result in expanded export opportunities for U.S. products.

The bill also will--

(1) reduce the time allowed for the development of section 301 cases;

(2) strengthen provisions for consultation with affected domestic interests prior to action on section 301 cases; and

(3) add a new provision requiring section 301 negotiations and actions with respect to countries that have unwarranted trade surpluses with the United States.

-- Telecommunications Trade (Chapter 2)

Import Relief, Subsidies, Dumping, and Other Unfair Trade Practices (Subtitle B)

-- Section 201 Reform (Chapter 1): Sections 201 through 203 of the Trade Act of 1974 require the President to provide import relief to facilitate orderly adjustment to import competition if he finds that increased inports have been, or threaten to be, a substantial cause of serious injury to a domestic industry. Section 201 provides for investigations by the International Trade Commission of petitions for such relief.

The bill will transfer the ultimate decisionmaking authority in such cases from the President to the United States Trade Representative.

Also, under the bill, if requested by the petitioner, an industry adjustment advisory group (composed of representatives of industry, communities, consumers, and Federal agencies (including the Department of Agriculture, as appropriate)) to develop an adjustment plan for the industry involved will be formed. The Secretary of Agriculture is to provide administrative support to each advisory group, if necessary.

The bill will make these further changes in the law--

(1) to provide that an affirmative injury determination by the ITC automatically will trigger expedited consideration of petitions for trade adjustment assistance;

(2) to require the Trade Representative (1) in determining whether to provide section 201 relief, to take into account (in consultation with the Secretary of Agriculture) the likely effect of the import relief on U.S. agricultural exports, and (b) to identify, in a report to Congress, such likely effect on exports; and

(3) to provide that revenues from section 203 duties or auctioning of quotas be deposited in a trust fund to be used for trade adjustment assistance.

-- Emergency Relief, Perishable Products (Chapter 1): The section 201 provisions of the bill will add general statutory authority for emergency relief under section 201 with respect to imports of perishable agricultural products during the course of the import relief proceeding if the Secretary of Agriculture determines, within 20 days, that relief is warranted and the Secretary's determination is not overridden by the Trade Representative. (NOTE: Under current law, emergency relief is available only with respect to CBI countries and Israel. Also, under current law, which would not be changed, the definition of perishable products includes vegetables, fruits, nuts, citrus concentrates, fresh mushrooms, fresh cut flowers, and live plants; petitioners for relief on agricultural perishable products file a report with the Secretary of Agriculture for emergency relief; and in those cases, the Secretary provides a recommendation to the President on the petition.

The bill also provides that, with respect to the new statutory authority, the emergency relief will consist of tariff increases or quotas.

-- Amendments to Countervailing and Antidumping Duty Laws (Chapter 2): Title VII of the Tariff Act of 1930 provides for the imposition of countervailing duties on products from a country if those products are subsidized and the importation of those products materially injures or threatens to materially injure a domestic industry. Likewise, duties are to be imposed if a country is dumping its products in the United States at less than its fair value and there is material injury or the threat of material injury.

The bill will provide for the International Trade Commission to consider special factors in cases involving imports of processed agricultural products. In defining the domestic industry, the ITC would consider whether the processed agricultural product is produced from a raw agricultural product through a single continuous line of production, and whether there is a substantial coincidence of economic interest between the raw product producers and the processed product producers. If an investigation relates to imports of both a raw product and a processed product, the ITC would have to consider the likely diversionary effect of duties imposed on one product but not the other. The term "raw agricultural product" would include any farm, forestry, or fishery product. Producers of a raw product and processors of the raw product would be permitted to join into a coalition to seek countervailing or antidumping duties on the processed product.

The bill also would--

(a) require the ITC, when investigating the issue of material injury, to cumulate the effect of imports from two or more countries, if such imports were subject to either countervailing or antidumping duty investigations within the last 12 months;

(b) permit injured parties to bring suit in the Court of International Trade for damages for the economic loss sustained by reason of the importation and sale at less than fair market value of merchandise that has been the subject of a final dumping order; and

(c) prohibit countervailing and antidumping duties paid on imported merchandise from being eligible for refund under drawback provisions.

-- Resource Input Subsidies (Chapter 2): The amendments to the countervailing duty law would include provisions to provide discipline for resource input subsidies, as follows: The practice whereby a government sells an input product or the right to remove or extract an input product to domestic industries at a price that is below market value would become actionable under the countervailing duty laws. Subsidy would only exist if the resource component constitutes a significant portion of the total costs of the manufactured product and, for input products, if the controlled domestic price of such input products is not freely available to U.S. producers for export to the United States. The bill would authorize a countervailing duty against the final manufactured product if the injury test is satisfied in each case. Further, the subsidy would be measured by the difference between the domestic price and the fair market value of the input product or removal right.

-- Intellectual Property Rights (Chapter 3)

Trade Negotiating Objectives and Authority (Subtitle C)

-- The bill sets forth United States objectives for trade negotiations. Among the overall trade objectives is "to achieve more open and fair conditions of trade in agricultural commodities by--

"(A) developing, strengthening, and clarifying rules to discipline restrictive and trade-distorting import and export practices; and

"(B) eliminating and reducing substantially specific constraints to fair and open trade, such as tariffs, quantitative restrictions, export subsidies, and other nontariff practices.".

The bill also will link the availability of the "fast track" procedure for implementing nontariff barrier agreements to action by the President to request an international monetary conference.

Further, the bill will require a determination by the President that any GATT agreement achieves the negotiating objectives and a statement explaining what objectives it does or does not achieve, and require consultations with Congress and private sector reports on the achievement of the objectives.

-- Trade Functions (Subtitle D): The bill will strengthen the role of the United States Trade Representative by specifying that the Trade Representative has primary responsibility for developing and coordinating implementation of international trade policy, trade negotiations, and trade policy guidance, and is the Nation's principal trade spokesman. However, the Trade Representative will have to consult with, and be advised by, the interagency trade organization under section 242 of the Trade Expansion Act of 1962; and the bill specifies that the interagency trade organization will be composed of the Trade Representative as chairman, and the Secretaries of Agriculture, Commerce, Labor, State, and Treasury as members.

The bill also will--

(a) establish a Fair Trade Advocate's Branch in the Office of the Trade Representative to assist small business and any industry that would suffer reprisals or other serious adverse economic effect by pursuing its own case under the countervailing duty or antidumping laws. The Trade Representative would assist in preparing cases, act as an advocate in proceedings, and pursue appeals.

(b) transfer authorities from the President to the Trade Representative under section 406 of the Trade Act of 1974 (market disruption), section 337 of the Tariff Act of 1930 (unfair trade practices), and the Generalized System of Preferences; and

(c) require the Trade Representative to submit an annual statement to the Committees on Ways and Means and Finance setting forth trade policy objectives and priorities, and actions and legislation to achieve them.

-- Miscellaneous Trade Law Provisions (Subtitle E)

TITLES II AND III--MISCELLANEOUS TARIFFS AND CUSTOMS PROVISIONS

Miscellaneous Tariff Issues

Titles II and III include over sixty miscellaneous trade and tariff issues convering duty suspensions, duty-free measures, classification changes, and customs-related non-tariff matters.

Among those provisions are the following:

(1) tariff treatment of grapefruit imports comparable to that for orange juice;

(2) inclusion of certain plywood products as plywood for purposes of the 20 percent ad valorum import duty;

(3) continuation of the suspension of duties on imported hot peppers;

(4) continuation of the suspension of duties on imported canteloupes;

(5) country-where-grown labeling on imported preserved mushrooms;

(6) continuation of the suspension of duties on certain imported wools; and

(7) revision of the tariff classificaiton of nicotene resins to clarify intent to permit duty-free entry of resin used in certain chewing gum.

Ethanol

Title II also revises the tariff rules regarding ethyl alcohol and mixtures thereof for fuel use. Specifically, these provisions clarify that the 60 cents per gallon duty applies to ethanol mixtures. Duty-free entry of ethyl alcohol from CBI countries will be permitted if the alcohol has been both fermented and dehydrated within those countries or if beneficiary country feedstock equal to a certain percentage of its value is used. The percentage levels are 10 percent in 1987, 20 percent in 1988, 30 percent in 1989, 50 percent in 1990, and 65 percent thereafter.

Casein

Title II will transfer the tariff classification of casein and related milk products that are used for food and feed purposes out of their current classification as industrial products and into a classification that reflects their true food and feed usage. (The effect of the change would be to impose on these items the duty that currently exists for milk protein concentrates.)

Committee on Agriculture

OUTLINE AND SUMMARY
OF AGRICULTURE-RELATED PROVISIONS
OF THE EXPORT ENHANCEMENT ACT OF 1986

(As Approved by the
Committee on Foreign Affairs, April 30, 1986)

As described in the Foreign Affairs Committee staff summary, the purpose of the Export Enhancement Act of 1986 is to promote world economic growth, in order to improve the standard of living both in the United States and abroad, and to expand overseas markets for U.S. exports. The bill stresses the need for greater coordination of macroeconomic policies between industrialized nations, stable exchange rates, a reduction in excessive bilateral trade imbalances, and an enhanced U.S. commitment to export promotion and global growth.

To these ends, the Export Enhancement Act will (1) strengthen the U.S. and Foreign Commercial Services; (2) improve the regulation of export trading companies; (3) expand the U.S. tied aid, or mixed credit, export financing program; (4) streamline the licensing process for national security export controls; (5) expand the financing authority of the Overseas Private Investment Corporation; (6) enhance the resources of the Trade and Development Program; and (7) increase U.S. efforts to protect intellectual property rights.

TITLE I--EXPORT PROMOTION

Among the provisions of title I are the following that relate to agriculture:

Agricultural Trade Policy

The bill sets out a statement of agricultural trade policy, and findings on which the policy is based, similar to the policy and findings set out in section 1121 of the Food Security Act of 1985.

The Foreign Affairs Committee findings differ substantively from those of the farm bill in that--

(1) the Foreign Affairs version adds to the reasons set out in the farm bill for the decline in U.S. exports (unfair competition and the overvalued dollar) the following reasons: increased production in other countries, increased external debt for many developing countries, and "other factors";

(2) instead of stating that agricultural interests have been underrepresented in the formulation by the Government of economic policy that has contributed to the strengthening of the dollar, the Foreign Affairs version more generally states that the underrepresentation has been in the formulation of economic policy affecting trade;

(3) the Foreign Affairs version deletes the farm bill findings that foreign policy objectives have been introduced

into the trade policy process in a manner injurious to the goal of maximizing U.S. economic interests through trade, and that achievement of such goal is in the best interests of the United States; and

(4) the Foreign Affairs version adds a new finding that the development and implementation of an effective U.S. agricultural trade policy will serve our national interests and contribute to reversing the decline in U.S. agricultural exports.

With respect to the policy statement, the Foreign Affairs Committee statement differs substantively from that in the farm bill in that--

(1) the Foreign Affairs version adds a new statement that it is declared to be agricultural trade policy to expedite negotiations to revise GATT rules and codes to eliminate barriers to trade in agricultural products;

(2) the Foreign Affairs version drops the farm bill declaration of policy to remove foreign policy constraints to maximize U.S. economic interests through agricultural trade; and

(3) the Foreign Affairs version calls for consideration of U.S. agricultural trade interests in the formulation of economic policy affecting trade, while the farm bill calls for the consideration of such interests in the formulation of economic policy that may foster continued strength in the value of the dollar.

Public Law 480--Wood and Wood Products

The bill would amend section 104(b)(1) of Public Law 480 to clarify that development activities funded through Public Law 480 title I-generated local currency can include projects to develop new markets for U.S. wood and wood products.

The bill also will amend section 108(i) of Public Law 480 to clarify that the construction of low- and medium-income housing and shelter will be considered as a private sector development activity and a private enterprise investment for purposes of carrying out activities under section 108 and section 1111 of the Food Security Act of 1985 (private enterprise promotion).

Trade Strategy Reports

The bill will require the Secretary of Agriculture to prepare, and the President to submit with his budget each year, annual strategy reports establishing recommended policy and spending goals for U.S. agricultural trade and exports for 1- , 5- , and 10-year periods. The Secretary would include in the report specific agricultural trade goals, policies, and programs to achieve such goals, and recommended levels of Federal spending for international programs and activities to accomplish long-term strategies for growth in agricultural trade and exports. The report also would include any recommendations for changes in legislation governing the international programs of the Department of Agriculture to meet the long-term goals proposed in the report.

Also, the Secrtary of Agriculture would be required to establish an Office of Agricultural Trade Policy Planning and Evaluation to coordinate preparation of strategy reports.

Market Development Activities

The bill contains provisions to improve the market development activities of the Department of Agriculture, as follows:

(1) Authority for the Secretary of Agriculture to make Commodity Credit Corporation commodities available to cooperator organizations for market development demonstrations.

(2) Authority for the Secretary to assign agricultural trade officers to overseas posts that offer market potential but to which an officer is not currently assigned.

(3) A requirement that the Secretary assist State departments of agriculture in supporting the export efforts of private companies. Such assistance would include the stationing of marketing specialists in States or regions as part of the normal rotation of these specialists between the United States and foreign posts.

(4) A requirement that the Secretary establish, within the Foreign Agricultural Service, a commodity division to support value-added products not covered by cooperator agreements and to help develop a cooperator organization to support the marketing role of the division.

Grain Standards Study

The bill expresses the sense of Congress that, in conducting the study of grain export quality standards and grain handling practices under section 1673 of the Food Security Act of 1985, the Office of Technology Assessment should--

(1) evaluate the competitive problems the United States faces in international grain markets that are attributable to U.S. grain standards and practices;

(2) identify the extent to which quality standards and handling practices have contributed to the decline in U.S. grain exports;

(3) compare the grain quality standards and handling practices of the United States with its major competitors;

(4) evaluate the economic consequences if U.S. export grain elevators become subject to a prohibition against blending dockage or high-moisture grain into export grain and other specified grain inspection procedures; and

(5) evaluate current grain classification methods, new classification technology, and the effect of new seed varieties on exports and users of grain.

Also, OTA should cooperate with private industry in conducting the study and, to the extent possible, include the recommendations of the North American Export Grain Association and other agricultural organizations in its report.

Export Enhancement Program--Traditional Customers

The bill will revise the criteria under section 1127(b)(2) of the Food Security Act of 1985 relating to the export PIK program. Currently, section 1127(b)(2) requires the Secretary of Agriculture to give priority--in considering what foreign purchasers will be permitted to participate in the program--to traditional customers who increase their purchases from the United States. Under the bill, section 1127(b)(2) will be revised to add to the description of eligibility for priority consideration a provision that those customers who increase purchases also must be parties who either have most-favored-nation status with the United States or a negative trade balance with the United States.

Export Commission

The bill will extend the term of the Agricultural Trade and Export Policy Commission 30 additional days to the end of fiscal year 1986.

Trade Research and Reports

The bill will authorize the appropriation to the Secretary of Agriculture of such sums as are necessary to conduct research to enhance the long-term competitiveness of U.S. agricultural exports.

The bill also would require the Secretary to monitor foreign research and trade practices used to promote exports, and to report annually to Congress on the competitiveness of American agricultural exports, new research affecting competition, the level of subsidies by both the U.S. and foreign nations, and the marketing in nonmarket economies of U.S. agricultural commodities and their products.

TITLES II THROUGH V

Titles II through V of the bill cover export controls (title II), debt, development, and world growth (title III), protection of U.S. business interests abroad (title IV), and Budget Act compliance (title V).

AMENDMENT TO COMMITTEE PRINT #1

BY MR. WEAVER

MAY 6, 1986

Page 25, after line 8, add a new Title IV as follows:

TITLE IV -- LIMITATIONS ON SOFTWOOD LUMBER IMPORTS.

SEC. 401. DEFINITIONS.

As used in this Act:

(1) The term "base period percentage" means, with respect to an import year, the average annual percent of the softwood consumed in the United States that was accounted for by Canadian softwood during the fifteen-year period immediately preceding the calendar year 1980.

(2) The term "Canadian softwood" means softwood that is a product of Canada.

(3) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "import year" means the twelve-month period beginning -

(A) on the first day of the softwood import limitation period; and

(B) on each anniversary of that date that occurs during that period.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "softwood" means articles of a kind provided for in -

(A) items 202.03 through 202.30, inclusive;

(B) items 202.472 through 202.544, inclusive;

(C) items 245.45 through 245.50, inclusive; and

(D) item 200.85

of the Tariff Schedules of the United States (19 U.S.C. 1202).

(7) The term "softwood limitation period" means the five-year period beginning on the first day of the month next occurring after the one hundred and twentieth day after the date of the enactment of this Act.

SEC. 402. ANNUAL IMPORT LIMITATIONS.

(a) IN GENERAL.- The aggregate quantity of each category of Canadian softwood covered by this Act that may be entered during any import year many not exceed the amount that is the product of -

(1) the estimated consumption of softwood in the United States during that year, multiplied by

(2) the base period percentage for that year.

(b) DETERMINATION. - Not later than the thirtieth day before the first day of each import year, the Secreatary shall determine in accordance with subsection (a) the aggregate quantity each category of Canadian softwood covered by this Act that may be entered during that import year, but may make such intra-annual adjustments to such aggregate quantities as may be required as a result of the actual consumption of softwood in the United States during the course of that year. The Secretary may also impost limitations on the aggregate quantities of Canadian softwood that may be entered during any quarter of an import year in order to prevent surges in imports of any kind of those articles.

SECTION 403. CUSTOMS CONTROL.

The Secretary shall immediately certify to the Secretary of the Treasury all determinations, adjustments, and limitations determined under section 402. The Secretary of the Treasury shall take such action as may be necessary or appropriate to be sure that quantities of Canadian softwood entered during an import year, or applicable intra-annual period, are consistent with those determinations, adjustments, and limitations.

SEC. 404. INVESTIGATION, REPORT, AND RECOMMENDATIONS ON MANAGEMENT OF THE NATIONAL FOREST SYSTEM.

(a) INVESTIGATION AND REPORT. -- The Secretary of Agriculture shall investigate the relationship between softwood imports and management of the National Forest System and report on the results thereof within one hundred and eighty days after the date of enactment of this Act to the Committees on Agriculture and Interior and Insular

Affairs of the House of Representatives, and to the Committees on Agriculture, Nutrition and Forestry and Energy and Natural Resources of the Senate.

(b) RECOMMENDATIONS. -- If the Secretary finds, as a result of the investigation conducted pursuant to subsection (a), that softwood imports adversely affect management of the National Forest System, he shall include in his report recommendations to Congress for appropriate remedial legislation.

#2

AMENDMENT OFFERED BY MR. Coelho

Add at an appropriate place in the bill the following:

SEC. _____. Class I Milk

Section 201 of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, is amended by adding at the end thereof the following:

"( ) Notwithstanding any other provision of law, milk produced by foreign-owned dairies financed by or with the use of industrial revenue bonds shall not be classified as Class I and II milk for the purposes of the milk price support program or the milk marketing program under the Agricultural Marketing Agreement Act of 1937."

HOPKIN03B

#3

AMENDMENT TO ______________

OFFERED BY MR. HOPKINS

At an appropriate place in the bill, insert the following:

SEC.   . DETERMINING MATERIAL INTERFERENCE CAUSED BY IMPORTED TOBACCO.

Section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) is amended by adding at the end thereof the following: ``For purposes of any investigation conducted with respect to tobacco, or articles containing tobacco, imported into the United States, the impact of assessments imposed under section 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) on tobacco producers shall be considered to be a factor that supports a finding that such imported tobacco or articles materially interfere with the tobacco price support program carried out by the Department of Agriculture.''.

Amendment to Trade Bill, H.R. ______ #4
Offered by Mr. Hopkins

Page 25, after line 8, insert the following new section:

SEC. _____. Sense of Congress - Agricultural Trade And the Generalized System of Preferences

(a) Findings. -- Congress finds that --

(1) the United States maintains the Generalized System of Preferences as a program of tariff preferences granted to the developing countries to assist their economic development;

(2) approximately one hundred forty independent countries, non-independent countries and territories, and associations of countries are designated as beneficiary developing countries for approximately 7200 items in the United States tariff schedule under the United States Generalized System of Preferences;

(3) the United States Generalized System of Preferences provides that approximately 3000 designated articles listed in the Tariff Schedules of the United States imported from such beneficiary developing countries shall receive duty-free treatment;

(4) the United States had a trade deficit of over $144 billion in 1985 and $127 billion in 1984;

(5) many countries engage in unreasonable, unjustifiable, and discriminatory acts, policies, and practices that tend to effectively prohibit or burden unreasonably United States exports of agricultural products thus reducing agricultural exports and farm income; and,

(6) such acts, policies, and practices deny access to world markets for United States agricultural products and contribute to the United States trade deficit and the Federal budget deficit.

(b) Sense of Congress -- It is the sense of the Congress that any country which is found to engage in any such unreasonable, unjustifiable and discriminatory acts, policies, and practices against United States agricultural products, particularly tobacco and tobacco products, should not be treated as a beneficiary developing country under the United States Generalized System of Preferences until such acts, policies, and practices are eliminated.

#5

MDB724

Amendment to H.R.
Offered by Mr. Panetta and Mr. Stallings

Add at an appropriate place in the bill the following:

SEC. . EXPORT ENHANCEMENT PROGRAM.

Section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v) is amended--

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

``(2) shall, to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, give priority to all interested foreign purchasers who--

``(A) have traditionally purchased United States agricultural commodities and the products thereof and maintain their historic levels of United States imports of such commodities and products; and

``(B) who continue or begin to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period.'';

(2) by striking out ``and'' at the end of paragraph (4);

(3) by striking out the period at the end of

paragraph (5) and inserting ``; and'' in lieu thereof; and

(4) by adding at the end the following:

``(6) shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Forestry, and Nutrition of the Senate every 30 days a current list of countries provided agricultural commodities and products under this section and a justification for participation in this section.''.

#6

AMENDMENT BY MR. ENGLISH

RECIPROCITY

Sec. . Whenever the Secretary of Agriculture determines that a country is using trade subsidies, trade barriers, or unfair trading practices in competition with U. S. agriculture products determined to be in surplus, then the President shall direct the implementation of similar trade subsidies, barriers, or practices against that country's agricultural products or nonagricultural products being exported from that country to the U. S.

#7

Amendment to H.R. ______

Offered by Mr. Marlenee

Insert at the appropriate place in the bill the following new section:

Sec. ____. Imports of Beef and Beef Products

(a) Findings --

The Congress finds that --

(1) the Government of Canada has preliminarily determined that fresh, chilled, and frozen beef that is exported from the European Community to Canada is being subsidized; and

(2) such exports from the European Community to Canada may be displacing the Canadian market to such an extent that Canadian beef articles have been, and are being, imported into the United States in increased quantities.

(b) Definition --

For purposes of this Act, the term "Canadian beef products" means --

(1) live cattle (provided for in items 100.40 through 100.55, inclusive, of the Tariff Schedules of the United States (19 U.S.C. 1202)); and

(2) fresh, chilled, or frozen beef (provided for in item 106.10 of such Schedules);

that are a product of Canada.

(c) Moratorium --

Canadian beef products may not be entered, or withdrawn from warehouse for consumption, in the customs territory of the United States --

(1) after the 15th day after the date of the enactment of this Act; and

(2) before the day this section ceases to have force and effect under subsection (e).

(d) ITC Study Regarding Impact Of Canadian Beef Products On United States Producers.

The United States International Trade Commission (hereinafter in this Act referred to as the "Commission") shall undertake, and complete within 6 months after the date of the enactment of this Act, a study under section 201 of the Trade Act of 1974 to determine if increased imports of Canadian beef products into the United States are a substantial cause of serious injury, or threat thereof, to the United States industry or industries producing live cattle and fresh, chilled, or frozen beef. Upon completion of the study, the Commission shall immediately transmit a copy thereof to the House of Representatives and the Senate.

(e) Effect Of Study --

(1) If the Commission, in the study required under subsection (d) --

(A) does not find the serious injury, or threat thereof, referred to in that section, the moratorium established under subsection (c) shall cease to have force and effect on the day on which copies of such study are transmitted to Congress; or

(B) finds the serious injury or threat thereof, referred to in that section, then, until the termination under paragraph (2) applies --

(i) the moratorium established under section 3 shall continue in force and effect; and

(ii) the Commission shall periodically update the study required under subsection (d) (but not less than twice each year) and shall immediately transmit a copy of each update to the House of Representatives and to the Senate.

(f) Termination On Basis Of Study Update -- If as a result of any study update undertaken under paragraph (1)(B)(ii) the Commission finds that the injury, or threat thereof, found under paragraph (1)(B) is no longer serious, the moratorium established under subsection (c) shall cease to have force and effect on the day on which copies of that study update are transmitted to Congress.

8

Amendment #2

AN AMENDMENT OFFERED BY

MR. DASCHLE OF SOUTH DAKOTA

On Page 24, line 4, insert the following:

(4) by inserting after subparagraph (D), the following new subparagraphs:

"(E) Items 100.40, 100.43, 100.45, 100.00 and 100.55 (relating to live cattle);

(F) Items 100.85 and 106.40 (relating to fresh, chilled, frozen, or live pork).

Stenholm #4

MDB719

SEC. . INCLUSION OF LAMB PRODUCTS IN MEAT IMPORT ACT OF 1979.

(a) IN GENERAL.--Section 2(b)(2) of the Meat Import Act of 1979 is amended--

(1) by striking out ``and'' at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

``(C) item 106.30 (relating to fresh, chilled, or frozen lamb meat); and''.

(b) ADDITIONAL FORMULA.--Section 2 of the Meat Import Act of 1979 is amended by adding at the end the following:

``(m)(1) The aggregate quantity of meat articles consisting of articles described in subsection (b)(2)(C) which may be entered in any calendar year after 1986 may not exceed an amount computed under paragraph (2).

``(2) The amount referred to in paragraph (1) is an amount which bears the same ratio to the annual estimated domestic commerical production for that year of articles described in subsection (b)(2)(C), as the amount entered (during that year) of meat articles described in subsection (b)(2)(A) does to the annual estimated domestic commericial production for that year of articles described in subsection (b)(2)(A).''.

SEC. . CONSIDERATION OF HIGH SEASONAL MARKET PENETRATION IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

Section 771(7)(F)(i)(III) of the Tariff Act, 1930 (19 U.S.C. 1677(7)(F)(i)(III)) is amended by inserting ``, and any seasonal increase in market penetration'' after ``level''.

Penny #10

Amendment #3

AN AMENDMENT OFFERED BY
MR. DASCHLE OF SOUTH DAKOTA

On Page 25, following line 8, insert the following new title:

TITLE IV--PROTECTION OF QUALITY OF EXPORT GRAIN

Sec. 401. Section 6 of the United States Grain Standards Act (7 U.S.C. 78) is amended by adding at the end thereof the following:

"(c)(1) To protect the quality of grain exported from the United States, no dockage or foreign material (including but not limited to dust or particles of whatever origin) once removed from grain shall be recombined with any grain when there is a possibility that the recombined product may be exported from the United States; and no dockage or foreign material of any origin may be added to any grain that may be exported when the result will be to reduce the grade or quality of the grain or to reduce its ability to resist spoilage.

"(2) Nothing in paragraph (1) shall be construed to prohibit --

"(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grains;

"(B) the export of dockage or foreign material removed from grain when such dockage or foreign material is pelletized or a part of a processed ration for livestock, poultry, or fish and is exported separately and uncombined with any whole grain;

"(C) the addition to grain of confetti, or any other material that serves the same purpose, in an amount necessary to facilitate identification of ownership or origin of a particular lot of grain; and

"(3) Adjustment of the moisture content of grain that may be exported is permitted by the blending of such grain with a similar grain of different moistue content if the difference between the moisture contents of the grains being blended does not exceed 4 per centum, but the addition of water to grain that may be exported is prohibited except by aeration of such grain with natural air.".

#11

Amendment #4

AN AMENDMENT OFFERED BY
MR. DASCHLE OF SOUTH DAKOTA

On page 10, following subsection (2), add the following new subsection:

"(3)(A) The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the Special Trade Representative of the United States, and any other Federal agency, shall compile and report statistics on the total value and quantity of imported raw and processed agricultural products.

(B) The Secretary shall also compile data on the total amount of production and consumption of domestically produced raw and processed agricultural products.

(C) The data required from the Secretary in subparagraphs (A) and (B) shall be compiled and issued in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue this report on a quarterly basis."

(2) redesignate subparagraph (3) as subparagraph (4)

BRUCE022

#12

AMENDMENT TO H. R. ____
OFFERED BY MR. BRUCE

At the appropriate place insert the following new section:

SEC. ___. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

(a) IN GENERAL.--During the effective period of item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202; hereinafter referred to in this section as the ``Schedules''), and except as provided in subsection (b), no ethyl alcohol or a mixture thereof may be considered--

(1) for purposes of general headnote 3(a) of such Schedules, to be--

(A) the growth or product of an insular possession of the United States,

(B) manufactured or produced in an insular possession from materials which are growth, product, or manufacture of any such possession, or

(C) otherwise eligible for exemption from duty under such headnote as the growth or product of an insular possession; or

(2) for purposes of section 213 of the Caribbean Basin Economic Recovery Act, to be--

(A) an article that is wholly the growth, product, or manufacture of a beneficiary country,

(B) a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country,

(C) a material produced in a beneficiary country, or

(D) otherwise eligible for duty-free treatment under such Act as the growth, product, or manufacture of a beneficiary country;

unless the ethyl alcohol or mixture thereof is an indigenous product of that insular possession or beneficiary country.

(b) EXCEPTION.--

(1) Subject to the limitation in paragraph (2), subsection (a) shall not apply to ethyl alcohol that is--

(A) imported into the United States during calendar years 1987 and 1988; and

(B) produced in an azeotropic distillation facility located in an insular possession of the United States or a beneficiary country, if that facility was established before, and in operation on, January 1, 1986.

(2) The exception provided under paragraph (1) shall cease to apply during each of calendar years 1987 and 1988 to ethyl alcohol produced in a facility described in

paragraph (1)(B) after 20,000,000 gallons of ethyl alcohol produced in that facility are entered into the United States during that year.

(c) DEFINITIONS.--For purposes of this section:

(1) The term ``ethyl alcohol or a mixture thereof'' means ethyl alcohol or any mixture thereof described in item 901.50 of the Appendix to the Schedules.

(2) Ethyl alcohol or a mixture thereof may be treated as being an indigenous product of an insular possession or beneficiary country only if the ethyl alcohol or a mixture thereof--

(A) has been both dehydrated and produced by a process of full-scale fermentation within that insular possession or beneficiary country; or

(B) has been dehydrated within that insular possession or beneficiary country from hydrous ethyl alcohol that includes hydrous ethyl alcohol which is wholly the product or manufacture of any insular possession or beneficiary country and which has a value not less than--

(i) 30 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1987,

(ii) 60 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1988, and

(iii) 75 percent of the value of the ethyl alcohol or mixture, if entered after December 31, 1988.

(d) AMENDMENT TO APPENDIX TO SCHEDULES.--The item designation for item 901.50 of the Appendix to the Schedules is amended to read as follows: ``Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) or any mixture containing such ethyl alcohol provided for in part 1, 2, or 10 of schedule 4) if such ethyl alcohol or mixture is to be used as fuel or in producing a mixture of gasoline and alcohol, a mixture of a special fuel and alcohol, or any other mixture to be used as fuel (including motor fuel provided for in item 475.25), or is suitable for any such uses.''

(e) CONFORMING AMENDMENTS.--

(1) General headnote 3(a)(i) of the Schedules is amended by inserting ``and except as provided in section ___ of the Agricultural Trade Policy Act of 1986,'' after ``part 7 of schedule 7,''.

(2) Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by inserting ``and subject to section ___ of the Agricultural Trade Policy Act of 1986,'' after ``Unless otherwise excluded from eligibility by this title,''.

(3) The headnotes to subpart A of part 1 of the Appendix to such schedules is amended by adding the following new headnote:

``(2) For the purposes of item 901.50, the phrase `suitable for any such uses' does not include ethyl alcohol (provided for in item 427.88, part 2D, schedule 4), or any mixture containing such ethyl alcohol (provided for in part 1, 2, or 10 of schedule 4), that is certified by the importer of record to the satisfaction of the Commissioner of Customs to be ethyl alcohol, or a mixture containing such ethyl alcohol, imported for uses other than as fuel use or in producing mixtures to be used as or in fuel. If the importer of record certifies such nonfuel use, the Commissioner shall suspend liquidation of the entry of the ethyl alcohol, or ethyl alcohol mixture, until he is satisfied that the ethyl alcohol or ethyl alcohol mixture has not been used as fuel or in the product of a fuel mixture. If satisfactory proof of nonfuel use is not furnished within the period of time established by the Commissioner, then the duties provided for in item 901.50 shall be payable retroactive to the date of entry. Such duties shall also become payable, retroactive to the date of entry, immediately upon the diversion to fuel use of any ethyl alcohol, or ethyl alcohol mixture, certified upon entry as having been imported for nonfuel use. The form of the certification to be filed upon entry, the period of time permitted for providing proof of nonfuel use, the form of such proof, and such other procedures as may be regulated for the administration of item 901.50 and this headnote, will be prescribed in regulations promulgated by the Commissioner.''.

EXPLANATION OF ETHANOL TRADE AMENDMENT

OFFERED BY MR. BRUCE

Under current law, Caribbean Basin nations are permitted to ship ethanol into the U.S. duty-free. The chief goal of the amendment is to terminate the practice by which Spain, Brazil and other non-CBI countries convert wet (190 proof) ethanol to 200 proof ethanol in a CBI country "dewatering" plant for the sole purpose of acquiring duty-free status. The amendment closes this loophole and two others:

** First, it limits the duty-free status of CBI ethanol to that which has been fermented and distilled in CBI beneficiary countries, and phases out the CBI loophole.

** Second, it clarifies that the 60-cent duty applies to mixtures of ethanol and other substances such as gasoline, toluene, ethylbenzene, etc.

** Third, it prohibits importers from bringing in fuel-grade ethanol under the guise of lower-duty industrial ethanol.

The pass-through dewatering practice undercuts existing full-fermentation ethanol facilities in the Caribbean, and eliminates incentives for Caribbean and American investment in new full-fermentation facilities. The dewatering process is economically inefficient and offers relatively little benefit to CBI nations, while directly competing with the development of an indigenous CBI ethanol industry.

Under the amendment, the phaseout period would extend for three years. During calendar year 1987, 30% of the value of the wet ethanol distilled in simple dehydration towers would have to be the product of a CBI nation. During 1988 and 1989, the percentage requirement of CBI wet ethanol increases to 60% and 75% respectively.

This amendment reflects language which was contained in the original Ways and Means trade bill. However, the final bill was substantially weakened by an amendment which would extend the phaseout period from three to five years and would reduce the percentage requirements. This amendment restores the stronger original language.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 7, 1986

~~(Sub)~~ Committee: Full

Business Meeting

met at 9:50 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 4613, the Futures Trading Act of 1986

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones (Tenn.)
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher

Mr. Tallon
Mr. Staggers
Mr. Evans (Ill.)
Mr. Thomas
Mr. Olin
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Robert Cashdollar, Subcommittee Staff Director
Jim Johnson, Staff Assistant
Susan Adkins, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

The following were present to respond to questions:

1. Hon. Susan Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.
2. Ms. Jean Harmann, Office of Legislative Counsel, U.S. House of Representatives

Wednesday, May 7, 1986
Full Committee
Business Meeting - a.m.
H.R. 4613, Futures Trading Act

Action Taken:

-- By roll call vote 12 yeas-30 nays Glickman leverage amendment not agreed to.

-- By voice vote Madigan amendment setting forth report requirements to Jeffords amendment agreed to.

Chairman de la Garza called the meeting to order for the purpose of considering H.R. 4613, the Futures Trading Act of 1986. Copy of Committee Print and explanation attached. Brief opening comments were made by Messrs. Jones (Tenn.), Coleman, and Glickman.

Mr. Jones (Tenn.), Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized to give the Subcommittee's report on the legislation. Counsel Fraas was asked to explain the provisions of the bill.

Discussion occurred on the legislation and Mr. English asked that the attached comparisons of futures and leverage contracts be entered into the record.

Mr. Glickman was recognized to offer the attached amendment concerning the regulation of leverage contracts, and discussion occurred. By a voice vote the proposal was not agreed to. Mr. Glickman requested a recorded vote and a sufficient number of Members supported the request. The vote follows:

YEAS

1. Mr. English
2. Mr. Glickman
3. Mr. Daschle
4. Mr. Stenholm
5. Mr. Volkmer
6. Mr. Staggers
7. Mr. Evans (Ill.)
8. Mr. Morrison
9. Mr. Gunderson
10. Mr. Smith
11. Mr. Rose (proxy to Mr. English)
12. Mr. Bruce (proxy to (Mr. de la Garza)

Wednesday, May 7, 1986
Full Committee
Business Meeting - a.m.
H.R. 4613, Futures Trading Act

NAYS

1. Mr. Jones (Tenn.)
2. Mr. Weaver
3. Mr. Bedell
4. Mr. Panetta
5. Mr. Huckaby
6. Mr. Whitley
7. Mr. Coelho
8. Mr. Thomas
9. Mr. Madigan
10. Mr. Jeffords
11. Mr. Coleman
12. Mr. Hopkins
13. Mr. Stangeland
14. Mr. Roberts
15. Mr. Emerson
16. Mr. Evans (Iowa)
17. Mr. Franklin (proxy to Mr. Jeffords)
18. Mr. Lewis
19. Mr. Combest
20. Mr. Schuette
21. Mr. Foley (proxy to Mr. de la Garza)
22. Mr. Jones (N.C.) (proxy to Mr. Jones (Tenn.))
23. Mr. Brown (proxy to Mr. Jones (Tenn.))
24. Mr. Hatcher (proxy to Mr. Jones (Tenn.))
25. Mr. Tallon (proxy to Mr. Jones (Tenn.))
26. Mr. Olin (proxy to Mr. Jones (Tenn.))
27. Mr. Penny (proxy to Mr. de la Garza)
28. Mr. Stallings (proxy to Mr. Jones (Tenn.))
29. Mr. Chappie (proxy to Mr. Jeffords)
30. Mr. de la Garza

Thus, by a roll call vote of 12 yeas-30 nays the Glickman amendment was not agreed to.

Mr. Jeffords offered his leverage amendment (copy attached) which would limit leverage transactions to precious metals and require the CFTC to conduct a survey of additional firms which may be interested in entering into the leverage business as well as possible changes in existing leverage regulations. Discussion occurred.

Mr. Madigan offered the attached amendment to the Jeffords amendment which would add additional requirements to the report. Discussion occurred and by a voice vote the Madigan proposal was agreed to.

Discussion continued on the pending Jeffords amendment. At 12:05 p.m. the meeting was adjourned to reconvene at 1:30 p.m. this date. Mr. Jeffords, staff and representatives of the CFTC were asked to work together during the break to try to perfect the Jeffords compromise.

Glenda Temple
Glenda Temple

DELAGA027

HLC

[COMMITTEE PRINT]
May 6, 1986
(Showing the text of H.R. 4613 as amended on April 22, 1986, by the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture.)

99TH CONGRESS
2D SESSION

H. R. 4613

IN THE HOUSE OF REPRESENTATIVES

Mr. DE LA GARZA (for himself, Mr. MADIGAN, Mr. JONES of Tennessee, and Mr COLEMAN of Missouri) introduced the following bill; which was referred to the Committee on ______________

[Strike out all after the enacting clause and insert the part shown below]
[For the text of the introduced bill, see copy of the bill introduced on April 17, 1986]

A BILL

To reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ``Futures Trading Act of 1986''.

FRAUDULENT PRACTICES

SEC. 2. Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by--

(1) striking out ``on or subject to the rules of any contract market,'' the second place it appears in the first sentence;

(2) designating the first sentence as subsection (a) and the second sentence as subsection (b); and

(3) adding, at the end thereof, the following:

``(c) Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, its territories, or its possessions involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.''.

OPTIONS TRANSACTIONS

SEC. 3. Section 4c(c) of the Commodity Exchange Act (7 U.S.C. 6c(c)) is amended to read as follows:

``(c) Within 60 days of the effective date of the Futures Trading Act of 1986, the Commission shall rescind its options pilot program, including any numerical restrictions on the options that may be traded on each designated contract market, and shall establish a permanent program for the trading of options on futures contracts and physical commodities on designated contract markets under such terms and conditions as the Commission shall prescribe. Notwithstanding the foregoing sentence, any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling, the commodity involved in the transaction or the products or byproducts thereof, may continue to be offered to be entered into, entered into, or confirmed.''.

EXTRATERRITORIAL SERVICE OF SUBPENAS

SEC. 4. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended by--

(1) inserting ``(except as provided in the proviso of the following sentence)'' immediately before ``may administer oaths and affirmations, subpena witnesses'' in the third sentence;

(2) striking out ``or any State'' in the fourth sentence and inserting in lieu thereof ``, any State, or any foreign country or jurisdiction''; and

(3) inserting, immediately before the period at the end of the fourth sentence, a semicolon and ``and a subpena issued under this subsection may be served on any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpena to be served on a person outside the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission''.

EX PARTE APPOINTMENTS OF TEMPORARY RECEIVERS

SEC. 5. The proviso of the first sentence of section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting, within the parenthetical phrase immediately before the close parenthesis, a comma and ``and other than an order appointing a temporary receiver to administer any books, records, documents, funds, assets, or other property that is subject to such restraining order and to perform such other duties as the court may consider appropriate''.

CERTAIN PROHIBITED TRANSACTIONS

SEC. 6. Section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by--

(1) inserting, immediately before the period at the end of the first sentence, the following: ``if nonpublic

information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission''; and

(2) striking out the second and third sentences and inserting in lieu thereof the following: ``The foregoing prohibitions shall not apply to any transaction or class of transactions that the Commission, by rule or regulation, has determined would not be contrary to the public interest or otherwise inconsistent with the purposes of this section.''.

REAUTHORIZATION

SEC. 7. Effective October 1, 1986, section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

``(d) There hereby are authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1986, and ending September 30, 1989.''.

REGISTERED FUTURES ASSOCIATION DISCIPLINARY ACTIONS AND MEMBERSHIP RESTRICTIONS

SEC. 8. Subsections (h) and (i) of section 17 of the Commodity Exchange Act (7 U.S.C. 21 (h) and (i)) are amended to read as follows:

``(h)(1) If any registered futures association takes any final disciplinary action against a member thereof or a person associated with a member, or denies admission to any person seeking membership therein or bars any person from being associated with a member, the association promptly shall give notice thereof to such member or person and file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this Act.

``(2) Any action with respect to which a registered futures association is required by paragraph (1) of this subsection to file notice shall be subject to review by the Commission on its motion, or on application by any person aggrieved thereby. Such application must be filed within thirty days after the date such notice was filed with the Commission and received by the aggrieved person, or within such longer period as the Commission may determine.

``(3) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish standards for an expedited procedure for consideration and determination of the question of a stay.

``(i)(1) In a proceeding to review a final disciplinary action taken by a registered futures association against a member thereof or a person associated with a member, after appropriate notice and opportunity for a hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction imposed by the association)--

``(A) if the Commission finds that (i) such member or person associated with a member has engaged in the acts or practices, or has omitted the acts, that the association has found the member or person to have engaged in or omitted; (ii) the acts or practices, or omissions to act, are in violation of the rules of the association specified in the determination of the association; and (iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the association, modify the sanction in accordance with paragraph (2) of this subsection, or remand the case to the association for further proceedings; or

``(B) if the Commission does not make any such finding, it shall set aside, by order, the sanction imposed by the association and, if appropriate, remand the case to the association for further proceedings.

``(2) If after a proceeding in accordance with paragraph (1) of this subsection, the Commission finds that any penalty imposed on a member or person associated with a member is excessive or oppressive, having due regard for the public interest, the Commission, by order, shall cancel, reduce, or require the remission of the penalty.

``(3) In any proceeding to review the denial of membership in a registered futures association or the barring of any person from being associated with a member, after appropriate notice and hearing (which hearing may consist solely of consideration of the record before the association and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the action of the association)--

``(A) if the Commission finds that (i) the specific grounds on which the denial or bar is based exist in fact, (ii) the denial or bar is in accordance with the rules of the association, and (iii) such rules are, and were applied in a manner, consistent with the purposes of this Act, the Commission, by order, shall affirm or modify the action of the association; or

``(B) if the Commission does not make any such finding, the Commission shall set aside, by order, the action of the association and require the association to admit the applicant to membership therein, or permit the person to be associated with a member.

``(4) Any person (other than a registered futures association) aggrieved by a final order of the Commission entered under the provisions of this subsection may file a petition for review with a United States court of appeals in the same manner as provided in section 6(b) of this Act.''.

REGISTERED FUTURES ASSOCIATION RULES

SEC. 9. Section 17(j) of the Commodity Exchange Act (7 U.S.C. 21(j)) is amended by striking out the third sentence.

BRIEF SUMMARY OF H.R. 4613
(as reported by the Subcommittee on
Conservation, Credit, and Rural Development)

H.R. 4613, The Futures Trading Act of 1986, will reauthorize appropriations to carry out the regulatory program under the Commodity Exchange Act, and make several technical improvements to that Act.

In brief, the major provisions of the bill, as reported by the subcommittee on April 22, 1986, would--

(1) Reauthorize appropriations for the Commodity Futures Trading Commission for three years (sec. 7);

(2) Make technical amendments to the Commodity Exchange Act to clarify that the Act prohibits fraud in connection with any futures contract, regardless of whether executed on a contract market (sec. 2);

(3) Require the CFTC, within 60 days after enactment of the bill, to rescind its options pilot program and establish a permanent program for options trading on contract markets (sec. 3);

(4) Expressly authorize the CFTC (on a majority vote of the Commission) to serve investigatory subpoenas on persons outside the United States (sec. 4);

(5) Authorize the CFTC to seek appointment of a temporary ex parte receiver when it seeks an ex parte freeze on assets or records to prevent the assets from being dissipated or the records destroyed (sec. 5);

(6) Permit CFTC employees to invest in actual commodities so long as no nonpublic information is used and the transactions do not involve futures or options, and authorize the CFTC to permit other employee transactions by regulation (sec. 6);

(7) Simplify and clarify CFTC procedures for review of disciplinary actions brought by registered futures associations (sec. 8); and

(8) Delete from the Act a provision that requires CFTC to act on registered futures association rules within 30 days (sec. 9).

PROPOSED REPORT LANGUAGE

The subcommittee favorably submitted to the full Committee, for its review, several proposals for inclusion of language in the report of the Committee, as follows:

(1) Report language expressing the Committee's understanding that the CFTC will work through the Department of State and with other nations in serving extraterritorial investigatory subpoenas, and expressing the Committee's intent that the CFTC use treaty procedures to serve such subpoenas to the extent practicable.

(2) Report language (in connection with the action of the Subcommittee striking out a provision authorizing CFTC alteration of a futures association's rules) indicating the Committee's expectation that it will not need to revise the Commission's oversight powers with respect to the rules of the National Futures Association if NFA continues to meet its obligations as a self-regulatory organization.

(3) Report language indicating the Committee's anticipation that the CFTC will administer the audit trail regulation in a manner designed to achieve its ultimate goal of an effective audit trail, and will not interpret the one-minute timing requirement under the regulation in its narrowest, most technical sense.

(4) Report language encouraging the CFTC to exercise its authority under the Act to determine whether the audit trail rules are adequate to detect possible abuses in dual trading by brokers, and whether any additional trading standards should be adopted for floor brokers or whether dual trading should be prohibited.

(5) Report language urging the full or partial exemption of certain registered investment advisors of life insurance companies from the application of the commodity trading advisor provisions of the Act.

(6) Report language expressing the Committee's belief that the CFTC should monitor the composition of the boards of commodities exchanges and encourage the exchanges to have ~~broad representation on their boards, including~~ representation of the various categories of market participants and other parties with an interest in the markets.

COMPARISON OF REGULATORY SAFEGUARDS

FUTURES v. LEVERAGE CONTRACTS

FUTURES REGULATION	LEVERAGE REGULATION
1. Exchange trading required for protection against customer and market abuses.	NO exchange trading safeguards imposed.
2. Economic purpose--hedging, price-discovery, and price dissemination functions--must be demonstrated for each contract.	NO demonstration of economic purpose required. Leverage contracts are solely speculative and have no such economic purpose.
3. Clearinghouse ensures financial integrity of market.	NO clearinghouse mechanism to assure integrity of trading. Customers solely dependent upon solvency of individual leverage firm.
4. Trading floor must be maintained for competitive pricing of contracts.	NO competitive pricing required. Prices are set secretly by the leverage firms. Leverage bid-ask spread generally more than 200% of futures bid-ask spread.
5. Self-regulatory investigation and disciplinary procedures required.	NO self-disciplinary safeguards imposed.
6. Manipulation is prohibited.	NO prohibition on manipulation. Leverage contract pricing is not set competitively and is thus inherently manipulative.
7. Cornering market is prohibited.	NO prohibition on cornering market.
8. Speculative limits restrict large positions.	NO limits on size of speculative positions.
9. Large-trader reports required.	NO large-trader reports required.
10. Cross trading and wash trading are prohibited.	NO prohibition on cross trading or wash trading.

SIMILARITIES OF FUTURES AND LEVERAGE CONTRACTS

FUTURES	LEVERAGE
1. Purchase or sale of commodity in the future.	1. Purchase or sale of commodity in the future.
2. Price agreed upon when transaction is executed.	2. Price agreed upon when transaction is executed.
3. Standardized as to such terms as margin payments, method of delivery, quantity and quality of the commodity.	3. Standardized as to such terms as margin payments, method of delivery, quantity and quality of the commodity.
4. Initial margin payments and maintenance margin payments.	4. Initial margin payments and maintenance margin payments.
5. Opportunity to forego delivery by offset or roll-over.	5. Opportunity to forego delivery by offset or roll-over.
6. Infrequent delivery; offset is predominant means of extinguishing transactions.	6. Infrequent delivery; offset is predominant means of extinguishing transactions.
7. Profit or loss determined by difference between price of initial and offset transactions.	7. Profit or loss determined by difference between price of initial and offset transactions.

- "[Monex' and FNMC's] contracts, when viewed as a whole, served substantially the same function as exchange-traded futures contracts: providing participants with an opportunity to assume or shift the risk of price changes in an underlying commodity without the forced burden of delivery."
- "Contrary to the views of [Monex and FNMC], the requirement that a futures contract be executed on a designated contract market is what makes the contract legal, not what makes it a futures contract."

-- CFTC, August 7, 1985 (In re FNMC and Monex International, Ltd.)

GLICKMAN
AMENDMENT-6
(CFTCR-A6)

AN AMENDMENT TO HR 4613
OFFERED BY MR. GLICKMAN

CONCERNING THE REGULATION OF LEVERAGE CONTRACTS

HR 4613 is amended by adding after Section 8, on page 9, after line 19 the following new section --

"Section 9. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by --

"(a) striking out existing subsection (b) and adding in lieu thereof a new subsection (b) to read as follows:

"(b) Prior to January 1, 1988, no person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of any commodity that is not covered by the prohibition in subsection (a) of this section under a standardized contract of a type described in subsection (a) of this section, unless such person has --

"(1) applied on or before September 4, 1985, to the Commission for registration as a leverage transaction merchant, as defined by the rules, regulations, and orders of the Commission;

"(2) satisfied all requirements for such registration under the rules, regulations, and orders of the Commission, including but not limited to the rules in effect on September 4, 1985, imposing moratoria on the entry into, entering into, or confirming the execution of any transaction for the delivery of any commodity under a standardized contract of a type described in subsection (a) of this section; and

"(3) received approval from the Commission of such application for registration as a leverage transaction merchant: Provided, That, the leverage transaction merchant registration of any person shall be suspended with out hearing if its business of offering to enter into, entering into, or confirming the execution of any transaction for the delivery of any commodity under a standardized contract of a type described in subsection (a) of this section, has been purchased, sold, assigned, or otherwise transferred on or after September 4, 1985 to any other person that does not satisfy independently the requirements of subsections (b)(1), (b)(2), and (b)(3) of this section.

The provisions of subsection (b)(1), (b)(2), and (b)(3) of this section shall not apply to any natural person lawfully registered as an associated person of a registered leverage transaction merchant.";

"(b) striking out existing subsection (C) and adding in lieu thereof a new subsection (c) to read as follows:

"(c) On or after January 1, 1988, no person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of any commodity that is not covered by the prohibition in subsection (a) of this section under a standardized contract of a type described in subsection (a) of this section, regardless of its duration, unless such transaction is conducted --

"(1) on or subject to the rules of a board of trade which has been designated by the Commission as a contract market under the provision of section 5 and section 6 of this Act, and

"(2) in accordance with all other provisions of this Act and rules, regulations, and orders of the Commission applicable to contracts for the purchase or sale of a commodity for future delivery.".

Jeffords

Section 19 of the Commodity Exchange Act, 7 U.S.C. § 23, is hereby amended to read as follows:

(a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the commodity Futures Trading Commission Act of 1974 under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) Except as otherwise provided in subsection (c) of this section, no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any other commodity under a standardized contract described in subsection (a) of this section. Nothing in this subsection shall affect any rights or obligations arising out of any transaction subject to the provisions of this section that was entered into, or the execution of which was confirmed, prior to the effective date of the Futures Trading Act of 1986.

(c) No person shall offer to enter into, enter, into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: Provided, That such rule, regulation, or order may be made only after notice and opportunity for hearing: Provided further, That no person may engage in any such activity who is not permitted to do so by the rules, regulations and orders of the Commission in effect on the effective date of the Futures Trading Act of 1986 until the Commission permits such person to engage in such activity in accordance with regulations adopted in accordance with the provisions of subsection (d) of this section.

(d) The Commission, with the assistance of a futures association registered under this Act, shall, within two years following the effective date of the Futures Trading Act of 1986, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into or confirming the execution of the transactions subject to the provisions of this section and shall transmit a report of the results of such survey to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Notwithstanding any other provision of law for purposes of completing such report the Commission may by rule, regulation, or order direct any registered futures association to render such assistance as the Commission shall specify. Such report shall include the Commission's recommendations concerning the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into and confirming the execution of such transactions and the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of the transactions or prevent manipulation or fraud. Such report shall also include the Commission's proposed regulations to govern such transaction, which regulations may require, notwithstanding any other provision of law, that a futures association registered under this Act perform such responsiblites in connection with such transactions as the Commission may specify, and that permission for additional persons to engage in such business be made on a gradual basis so as not to place an undue burden on the resources of the Commission. Such regulations shall not become effective until the expiration of 30 calendar days of continuous session of Congress after the date of the transmittal thereof to the Congress.

Amendment to the Jeffords Amendment

Offered by Mr. Madigan

On page 2 subsection (d) strike the sentence beginning with "Such report shall . . . " and insert in lieu thereof the following new sentence:

"Such report shall include the Commission's recommendations concerning: (1) whether such transactions serve an economic purpose; (2) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into and confirming the execution of such transactions; and (3) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of the transactions or prevent manipulation or fraud."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 7, 1986

~~(Sub)~~ Committee: Full

Business Meeting - p.m.

met at 1:50 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 4613, the Futures Trading Act of 1986

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Staggers
Mr. Thomas
Mr. Penny
Mr. Stallings
Mr. Bruce

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Lewis
Mr. Combest
Mr. Schuette
Mr.
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Members Also Present:
Watkins

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Susan Adkins, Minority Consultant
Bob Cashdollar, Subcommittee Staff Director
Fred Clark, Staff Assistant
Jim Johnson, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

Present to respond to questions:

1. Hon. Susan Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.
2. Mr. Kenneth Raisler, General Counsel, Commodity Futures Trading Commission, Washington, D.C.
3. Ms. Jean Harmann, Office of Legislative Counsel, U.S. House of Representatives

Wednesday, May 7, 1986
Full Committee
Business Meeting - p.m.
H.R. 4613, Futures Trading Act

Action Taken:

-- Without objection Jeffords revised language agreed to.

-- By voice vote section 1 of English amendment which would grant State's concurrent regulatory authority over any leverage transaction (to Jeffords proposal) not approved.

-- By voice vote section 2 of English amendment which would expand State's antifraud jurisdiction as it relates to leverage transactions (to Jeffords proposal) adopted.

-- By voice vote Gunderson amendment expanding the types of commodities (to Jeffords proposal) not approved.

-- By show of hands vote of 9 yeas-12 nays Glickman amendment adding foreign currencies and copper to list contained in Jeffords amendment not agreed to.

-- Without objection English amendment regarding price manipulation to Jeffords proposal withdrawn.

-- Without objection Volkmer change in time period as contained in Jeffords proposal approved.

-- By voice vote Jeffords leverage proposal, as amended, agreed to.

-- Without objection Stenholm amendment to rescind options pilot program adopted.

-- By voice vote three Glickman report language proposals on aggregation of accounts, speculative position limits, and Commission's hedging definition adopted.

-- Without objection two English report language proposals on fraudulent practices and extraterritorial service on subpenas agreed to.

-- Without objection Stenholm report language on liaison between USDA and CFTC approved.

-- Without objection report language approved by Subcommittee reaffirmed.

-- Without objection Bedell suggestion to Emerson report language agreed to.

-- Without objection Emerson report language on cost-benefit analysis, as amended, agreed to.

-- By voice vote H.R. 4613, as amended, ordered reported to the House in the presence of a quorum.

Wednesday, May 7, 1986
Full Committee
Business Meeting - p.m.
H.R. 4613, Futures Trading Act

Chairman de la Garza called the meeting to order to continue consideration of amendments to H.R. 4613, the Futures Trading Act of 1986. At the conclusion of the morning session, Mr. Jeffords had a pending compromise leverage amendment.

Mr. Jeffords distributed the attached revised language and discussion occurred. Without objection the revised language was agreed to.

Mr. English offered the attached amendment which permitted State jurisdiction over leverage. Discussion occurred. Mr. English asked unanimous consent that the two sections of the amendment be considered separately and there was no objection. Section 1 would grant to States concurrent regulatory authority over any leverage transactions. By a voice vote section 1 was not approved. Section 2 would expand States' antifraud jurisdiction as it relates to leverage transactions. By a voice vote section 2 was approved for incorporation into the Jeffords proposal.

Mr. Gunderson offered the attached amendment to the Jeffords proposal which would expand the amendment so that all commodities, not just gold and silver, may be the subject of leverage transactions. Discussion occurred and by a voice vote the Gunderson proposal was not approved.

Mr. Glickman moved to amend the Jeffords amendment to add "foreign currencies and copper" to the list in subsection (c). Discussion occurred and by a show of hands vote of 9 yeas-12 nays the amendment was not adopted.

Mr. English moved to amend the Jeffords proposal by adding the following language at the end thereof: "The Commodity Futures Trading Commission shall take any and all steps to prohibit price manipulation on or off the exchanges." Discussion occurred and without objection the proposal was withdrawn.

Mr. English stated that he understood that his amendment which was previously adopted might need to be redrafted to reflect his intent. Without objection, Mr. English will work with counsel on the language.

Mr. Volkmer asked unanimous consent that the time period contained in the Jeffords proposal be changed from 30 calendar days to 45 calendar days, and there was no objection.

The Jeffords proposal, as amended, was then agreed to by a voice vote.

Wednesday, May 7, 1986
Full Committee
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H.R. 4613, Futures Trading Act

Mr. Stenholm offered the attached amendment to rescind the options pilot program. Discussion occurred and without objection the proposal was agreed to.

Mr. Glickman offered suggested report language as follows: (1) on behalf of himself and Mr. Stenholm concerning the aggregation of accounts controlled by the same party for the application of position limits; (2) on behalf of himself and Mr. Jones (Tenn.) concerning speculative position limits; and (3) on behalf of himself and Mr. Jones (Tenn.) concerning the Commission's hedging definition. Mr. Glickman asked that the three proposals (copies attached) be considered en bloc and there was no objection. Discussion occurred and by a voice vote the language was agreed to.

Mr. English offered two pieces of report language dealing with fraudulent practices and extraterritorial service on subpenas (copies attached). Without objection the proposals were considered en bloc and agreed to.

Mr. Stenholm offered report language concerning liaison between the Department of Agriculture and the Commodity Futures Trading Commission. Discussion occurred and without objection the language was approved.

Chairman de la Garza called the Committee's attention to the attached report language which had been approved in Subcommittee. Without objection, the Committee reaffirmed the language.

Mr. Emerson offered the attached report language on cost-benefit analysis. Discussion occurred and Mr. Bedell suggested that "in the opinion of the Commission" should be added following the words "whenever appropriate". Without objection the Bedell suggestion was agreed to. Whereupon, the Emerson language, as amended, was adopted, without objection, for inclusion in the Committee report.

Mr. Jones (Tenn.) moved that H.R. 4613, as amended, be ordered reported to the House with the recommendation that it do pass. The motion was agreed to by a voice vote and in the presence of a quorum (27 Members present and voting). Staff was given permission to make any necessary clerical and technical changes in the bill and report.

During the proceedings one recess was taken at 3:00 p.m. to enable Members to respond to a recorded vote on the House floor. At 4:05 p.m. the meeting was adjourned, to reconvene on Thursday, May 8, to continue consideration of agricultural proposals to omnibus trade legislation.

Glenda Temple
Glenda Temple

REVISION OF THE LAST 4 SENTENCES OF THE JEFFORDS AMENDMENT TO CLARIFY THE INTENT AND INCORPORATE THE LANGUAGE OF THE MADIGAN PERFECTING AMENDMENT

"Such report shall include the Commission's findings and any recommendations concerning: (1) whether such transactions serve an economic purpose; (2) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into and confirming the execution of such transactions; and (3) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of the transactions or prevent manipulation or fraud. Such report shall also include the Commission's regulations governing such transactions, and such regulations shall provide permission for additional persons to engage in such transactions. Such regulations shall become effective on the expiration of 30 calendar days in which either House of Congress is in session after the date of the transmittal thereof to the Congress. The regulations may authorize or require, notwithstanding any other provision of law, that a futures association registered under this Act perform such responsibilities in connection with such transactions as the Commission may specify, and may require that permission for additional persons to engage in such business be made on a gradual basis so as not to place an undue burden on the resources of the Commission."

AMENDMENT PERMITTING STATE JURISDICTION OVER LEVERAGE

SEC. (1).

Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by deleting the following language from the grant of exclusive jurisdiction to the Commission in the first proviso to the third sentence: ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act".

SEC. (2).

Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by --

(1) striking out at the end of subsection (e)(2)(B) "or";

(2) striking out in subsection (e)(2)(C) "or 19"; and

(3) adding, following the words "this Act" in subsection (e)(2)(C), the following new subsection (e)(2)(D):

", or (D) that is subject to regulation by the Commission under section 19 of this Act".

AMENDMENT OFFERED MR. GUNDERSON

TO THE AMENDMENT OFFERED BY MR. JEFFORDS

STRIKE OUT "prior to the enactment of the Commodity Futures Trading Commission Act of 1974" IN SUBSECTION (a).

STRIKE OUT THE PERIOD AT THE END OF SUBSECTION (a) AND INSERT IN LIEU THEREOF A COMMA.

STRIKE OUT ALL OF SUBSECTION (b).

STRIKE OUT THE DESIGNATION "(c)" AND ALL THE LANGUAGE THAT FOLLOWS THROUGH AND INCLUDING THE PHRASE "standardized contract described in subsection (a) of this section,".

STRIKE THE DESIGNATION "(d)" AND INSERT IN LIEU THEREOF "(b)", AND CONFORM REFERENCES TO THAT SUBSECTION ACCORDINGLY.

EXPLANATION

The Gunderson amendment expands the Jeffords amendment so that all commodities, not just gold and silver, may be the subject of leverage transactions.

MAY 7, 1986

AMENDMENT TO H.R. 4613

OFFERED BY MR. STENHOLM

(AMENDMENT TO RESCIND OPTIONS PILOT PROGRAM)

SEC. 9. Section 4c(c) of the Commodity Exchange Act (7 U.S.C. 6c(c)) is amended to read as follows:

"(c) Within 90 days of the effective date of the Futures Trading Act of 1986, the Commission shall adopt regulations to eliminate the pilot status of its program for the trading of commodity options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated, and otherwise to continue to permit the trading of such commodity options under such terms and conditions that the Commission may from time to time prescribe. The foregoing sentence shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling,the commodity involved in the transaction, or the products or byproducts thereof."

REPORT LANGUAGE--HEDGING
(CFTCR-RHa)

LANGUAGE TO ACCOMPANY THE COMMITTEE REPORT ON HR 4613 OFFERED BY CHAIRMAN JONES AND MR. GLICKMAN

CONCERNING THE COMMISSION'S HEDGING DEFINITION

Section 4a(3) of the Act authorizes the Commission to define the term "bona fide hedging transaction" for the purpose of exempting such transactions from any position limits that are imposed on speculative futures trading. Pursuant to this authority, the Commission, in 1977, adopted a hedging definition which includes both a specific, itemized list of hedging transactions, as well as a general, conceptual definition of hedging. The Commission's hedging definition also serves, in part, as a basis for identifying those institutional investors that need not register as commodity pool operators.

During the reauthorization hearings, a number of futures industry representatives testified that the current hedging definition, which has not been modified in almost ten years, needs to be revised and updated. The witnesses recommended that this revision should be done by the Commission and should focus on the new financial futures and options markets. The principal problem they identified in the current definition is its focus on agricultural and other physical commodity futures.

These witnesses stated that, depending on how the definition is interpreted, it may not recognize certain new uses of financial futures and options by investment advisers, banks, and insurance companies that manage pension funds, mutual funds, and other portfolios who must choose among different investments with varying levels of risk and anticipated returns.

The Committee concurs in the view that the Act already provides the Commission with the power to make any needed revisions in the hedging definition and that no statutory changes are required at this time. The only limit Section 4a(3) places on the Commission's power to define hedging is that the definition must be consistent with the purposes of the Act. In this context, a principal purpose of the Act, as set forth in Section 4a(1), is to prevent excesssive speculation which might cause sudden or unreasonable fluctuations or unwarranted changes in commodity prices. At the same time, Section 3 of the Act has reflected Congressional interest for over sixty years in facilitiating hedging transactions. Within these broad parameters, the Commission clearly has the necessary power, as well as the responsibility, to define hedging in a way that is consistent with the current needs and practices of the industry. Indeed, this Committee asked the Commission in 1974 to "define hedging in a manner more consistent with the times and practices of the industry. It is not the intent of the Committee that it be used to overly restrict industry use of the futures markets for hedging." See House Report 93-975, 93d Congress, 2d Sess., 31-32 (1974).

The Committee strongly urges the Commission to undertake a review of its hedging definition for the purpose of ensuring that the definition is, in fac[illegible]ht with the legitimate needs and practices of the industry. As pa[illegible]s review, the Committee wishes the Commission to consider giving cer[illegible] concepts, uses, and strategies "non-speculative" treatment under the Act [illegible] relevant Commission regulations, whether under the hedging definition or, if appropriate, as a separate category similar to the treatment given certain spread, straddle, or arbitrage posisions: one, the concept of "risk mangement" by portfolio managers as an alternative to the concept of "risk reduction;" two, futures positions take as alternatives rather than temporary substitutes for cash market positions; three, other trading strategies involving the use of financial futures including, but not limited to, asset allocation (altering portfolio exposure in certain areas such as equity and debt), portfolio immunization (curing mismatches between the duration and sensitivity of a pension funds' assets and liabilities to assure that portfolio assets will be sufficient to fund payment of its liabilties), and duration (altering the average maturity of a portfolio's assets); and four, options transactions, in particular the writing of covered puts and calls.

In light of the above, the Committee suggests that the Commission review whether a numerical completion test for determing whether a transaction qualifies as an anticipatory hedge is appropriate for financial futures and options contracts. The Commission's focus could be on the intent and purpose of a transaction interpreted in the context of an entity's overall investment objectives and the purposes of the Act, without unnecessary resort to a numerical test which may frustrate legitimate use of these markets.

In conducting these reviews, the Commission should be mindful of the larger role that its pronouncements may play in identifying the economic functions of the futures and options markets. The Commission's hedging definition may serve as one source of guidance concerning the legitimate uses of these markets for both current and potential market users, as well as for other regulatory agencies, the Congress, and the general public. In exercising its powers, the Commission should, therefore, recognize its role in this area and endeavor to balance its responsibilities for orderly markets with the objective of appropriate commercial and investment utilization of the options and futures markets.

REPORT LANGUAGE--SPECULATIVE POSITION LIMITS
(CFTCR-RSLa)

LANGUAGE TO ACCOMPANY THE COMMITTEE REPORT ON HR 4613
OFFERED BY CHAIRMAN JONES AND MR. GLICKMAN

CONCERNING SPECULATIVE POSITION LIMITS

During the Subcommittee's hearings, a number of witnesses, including market users and the exchanges, discussed the need for the Commission to reexamine the current levels of speculative position limits. In summary, they indicated that the current levels, both those set by the CFTC in certain agricultural futures contracts, such as wheat, corn, soybeans, and cotton, and others set by the exchanges subject to CFTC approval, are in many cases low in relation to the current size, liquidity, and hedging use of the futures and options markets and the potential for any adverse market effects. In addition, some witnesses stated these limits may impede the growth and development of these markets without any commensurate regulatory benefits.

The Committee understands that in developing and implementing policies on speculative position limits, the Commission is properly mindful of the potential effects on the integrity of the futures and options markets and related cash markets. However, consistent with the foregoing, the Committee believes that, given the changes in the nature of these markets and the influx of new users thereof over the last decade, the Commission should reexamine the current levels of speculative position limits with a view toward elimination of unnecessary impediments to expanded market use.

In particular, speculative positions in the agricultural futures contracts subject to CFTC-set limits, which in many cases have remained unchanged for years, need to be reviewed. For contracts subject to exchange-set ~~limits,~~ the Committee believes that the Commission should give prompt consideration to reasonable requests by the exchanges to raise their limits under Rule 1.61. Since speculative limits are intended to serve as a check against potentially manipulative market forces, it is also important that these limits be periodically reassessed to determine their relationship to supply and demand factors in underlying markets as well as their compliance with other Rule 1.61 standards.

The Committee has noted a decline in futures trading volume in deferred months. The result of this decline is that producers find it more difficult to rely upon the futures markets both for hedging opportunities and for meaningful price discovery in deferred months. The Committee has also been advised that the success of the agricultural commodities options program to date could be further enhanced by providing for appropriately increased speculative limits.

The Committee particularly encourages the Commission to consider restructuring its speculative limits and to consider exchanges' requests to restructure their speculative limits to permit greater flexibility in the application of such limits to individual delivery months and all delivery months combined. The Committee specifically notes that Section 4a(1) of the

Act expressly permits the Commission to fix positions on a per future or per delivery month basis. Thus, existing law authorizes the Commission to set or approve an independent speculative limit for each delivery month traded. Under this approach, a trader could maintain, for example, positions in each of the May 1986 future, the July 1986 future, and the May 1987 future at existing speculative limit levels. However, the Committee also recognizes that the Commission's decision to implement such an approach would depend upon the circumstances pertaining to a particular market.

Such an approach need not result in any increase in position limits in spot months. The Committee believes that this approach may promote greater hedging opportunities in all delivery months while fostering better price discovery and stability for producers and other market users. Accordingly, the Committee urges the Commission to give prompt attention to increasing and restructuring the Commission-set speculative limits, and to similar proposals for exchange-set speculative limits consistent with the foregoing discussion.

REPORT LANGUAGE--AGGREGATION
(CFTCR-A3c)

SUGGESTED LANGUAGE FOR THE COMMITTEE REPORT CONCERNING THE AGGREGATION OF ACCOUNTS CONTROLLED BY THE SAME PARTY FOR THE APPLICATION OF POSITION LIMITS

OFFERED BY MR. GLICKMAN AND MR. STENHOLM

During the Subcommittee's hearings, several witnesses expressed dissatisfaction with the manner in which certain market positions are aggregated for purposes of determining compliance with speculative limts fixed pursuant to Section 4a of the Act. These witnesses suggested that, in some instances, aggregation of positions based on ownership without actual control unnecessarily restricts a trader's use of the futures and options markets. In this connection concern was expressed about the application of speculative limits to the market positions of certain commodity pools and pension funds using multiple trading managers who trade independently of each other.

The Committee does not take a position on the merits of these witnesses' claims. Nor does the Committee agree with the view that the Commission lacks sufficient flexibility under the existing law to grant exemptions from any limits set under Section 4a. The Committee believes that the Commission is not prohibited from granting exemptions from the literal applications of the speculative limits set under the provisions of Section 4a of the Act so long as such exemptions are not contrary to the stated purposes of those provisions. In this regard, the Committee recognizes the Comission's concern that any such exemptions may have on speculative activity, particularly in the agricultural markets. The Committee is aware of the Commission's policy of obtaining the advice of its appropriate advisory committees, in this case the Agricultural Advisory Committee and its Financial Products Advisory Committee. The Committee endores this policy and urges the Commission to examine this issue.

Report Language Offered by Mr. English
to H R. 4613

Report Language on Section 2 of H.R. 4613

This exemption clarifies that any antifraud enforcement action brought under section 4b involving foreign futures contracts will not be directed at the rules of, or trading practices occurring on foreign boards of trade, exchanges, or markets, or at the terms or conditions of the futures contracts traded on such boards of trade, exchanges, or markets. The Committee understands that activities on certain foreign markets include kerb trading or after-hours trading and intends that this trading be included in the exemption from the provisions of section 4b.

The exemption will not apply to fraudulent activities that, while subject to the rules of an exchange, do not take place on an exchange. For example, many foreign exchanges have rules proscribing fraud in the solicitation of futures contracts. If section 4b did not reach such conduct, persons could commit fraud on United States citizens, for example, by accepting customer funds with no intention of transmitting the money to execute contracts on the foreign exchange, and the fraud could arguably not be prosecuted under section 4b of the Commodity Exchange Act. The Committee amendment ensures that such conduct is subject to both civil and criminal prosecution under section 4b.

Report Language Offered by Mr. English
to H.R. 4613

Report Language on Section 3 of H.R. 4613

In granting authority to the Commodity Futures Trading Commission to serve investigatory subpoenas on persons outside the United States, the Committee recognizes the importance of the Commission's ability to obtain information from foreign nationals who trade in the U.S. markets. Such information is necessary for the Commission to perform its investigatory and surveillance responsibilities to ensure that the markets are safe for all participants, domestic and foreign. However, the Commission has assured the Committee that it will not use this authority routinely.

The scope of the Commission's authority is intended to parallel the authority of the United States Department of Justice and the Federal Trade Commission to serve civil investigative demands abroad. Thus, for example, the Commission's use of the extraterritorial subpoena power is to be limited to the pre-complaint, investigatory stage of enforcement proceedings. The Committee recognizes that in any action to enforce any subpoena issued pursuant to this authority, the federal district court would give appropriate consideration to any due process defenses raised.

The Committee expects that the Commission will exercise its authority appropriately in light of pertinent international factors. The Commission has assured the Committee that it is sensitive to the issues raised by foreign governments and foreign exchanges with respect to this authority and that it desires to exercise its authority in a way that will take those concerns into consideration. The Committee understands that the Commission traditionally has consulted with the Department of State, as it did in the Nahas case, to find a means of contacting foreign nationals in a way that seeks to avoid offending the foreign nation, and that the Commission intends to maintain that practice, where practicable. The Committee also understands that, where appropriate, the Commission will consult through the State Department with representatives of the receiving nation, with a view toward minimizing any perceived intrusion on the nation's sovereignty. In addition, where there are particular treaties or governmental mutual assistance guarantees, the Commission intends that the Commission use them, to the extent practicable.

May 7, 1986

REPORT LANGUAGE CONCERNING LIAISON BETWEEN USDA AND CFTC

Offered By Mr. Stenholm

Section 2(a)(8)(A) of the Commodity Exchange Act provides for a cooperative liaison relationship between the USDA and the CFTC. The purpose of this statutory requirement is to assure that critical information developed by these two agencies can be shared. Frequently, the USDA has new information about supply and demand conditions or changes to price support or marketing programs that could have a significant impact on futures markets as well as cash markets for agricultural commodities. Similarly, the CFTC may have information about futures market operations, large trader activity or futures contract specifications that may be significant for programs of the USDA. An active liaison relationship between these two government agencies is necessary to enable both to accomplish their missions effectively and in a manner that will be beneficial to this nation's agricultural economy.

We understand that there has been a continuing liaison between the USDA and the CFTC during the CFTC's twelve year history. This liaison has functioned at several levels between the Chairman or designated liaison of the Commission and the Secretary's designee and the staff level on an as-needed basis. A USDA representative occasionally attends CFTC market surveillance briefings, depending on the contracts being discussed. The Committee urges both the USDA and the CFTC to maintain an active liaison on issues of mutual importance and review the procedures by which information is shared between agencies. For example, the USDA should consider the timing of the public release of sensitive information to allow sufficient time for futures and cash market participants to assess the new information. Similarly, the CFTC, in recognition that agricultural futures and option markets are inextricably tied to the cash markets for those commodities, should provide the USDA, upon request, with pertinent information and consultation regarding futures market conditions or potential market conditions in a timely fashion.

Proposed Language to be Included in Report of the Committee on H.R. 4613, as Approved by the Subcommittee on Conservation, Credit, and Rural Development

(1) Report Language Relating to Extraterritorial Service of Subpoenas:

In granting authority to the Commodity Futures Trading Commission to serve investigatory subpoenas on persons outside the United States, the Committee recognizes the importance of the Commission's ability to obtain information from foreign nationals who trade in the U.S. markets. Such information is necessary for the Commission to perform its investigatory and surveillance responsibilities to ensure that the markets are safe for all participants, domestic and foreign. However, the Committee recognizes that the Commission does not anticipate exercising this authority as a routine matter.

The Committee understands that the Commission traditionally has consulted with the Department of State, as it did in the Nahas case, to find a means of contacting foreign nationals in a way that seeks to avoid offending the foreign nation, and that the Commission intends to maintain that practice, where practicable. In like fashion, although dependent on the facts and circumstances of a particular case, the Committee understands that, where appropriate, the Commission will consult through the State Department with representatives of the receiving nation, with a view toward minimizing any perceived intrusion on the nation's sovereignty. In addition, where there are particular treaties or governmental mutual assistance guarantees, the Committee intends that the Commission use them, to the extent practicable. In summary, the Committee expects that the Commission will use its extraterritorial subpoena authority appropriately in light of pertinent international factors.

(2) Report Language Relating to CFTC Oversight of NFA Rulemaking:

During the hearings of the Subcommittee on Conservation, Credit, and Rural Development on reauthorization of appropriations for the Commodity Futures Trading Commission, several witnesses addressed the performance of the industry's self-regulatory body, the National Futures Association, during the previous four years. In addition, the Committee has received several periodic reports about the NFA, including the Commission's essentially favorable evaluation of NFA in the report called for under the Futures Trading Act of 1982. In this regard, the Committee believes that the relationship between the NFA and the Commission has worked satisfactorily.

The Committee bill retains existing law on the issue of the Commission's power to alter or supplement rules developed by NFA. An amendment proposed by Mr. Glickman and adopted by the Subcommittee in its markup of the bill struck out the Commission's proposal to grant the Commission additional power to alter NFA rules.

Notwithstanding the Committee's view that this power is not needed at this time and notwithstanding the adoption of the amendment to strike out the Commission proposal, the Committee will continue to follow very closely the development of NFA to ensure that it fulfills its obligations as a self-regulatory organization under Commission oversight. If NFA continues to meet those obligations, the Committee expects that it will continue its current view of the adequacy of the Commission's oversight powers.

(3) Report Language Relating to the Audit Trail Issue:

On January 14, 1986, the Commodity Futures Trading Commission adopted a new regulation designed to achieve more effective audit trails on the commodities exchanges. Through the reconstruction of trading activity, audit trails provide an important exchange surveillance tool. Thus, audit trails facilitate the exchanges' ability to detect and punish persons engaged in improper and unethical practices.

The Commission's new regulation provides that the time of execution for each futures and options transaction be identified, by means developed by the exchange, to the nearest minute. In addition, the Commission's regulation calls on the exchanges to demonstrate the capability to use effectively this trade timing data in their self-regulatory programs.

In preparation for these hearings, Committee staff received a demonstration of a new audit trail system devised jointly by the Chicago Board of Trade and the Chicago Mercantile Exchange, called the Computerized Trade Reconstruction System. The Chicago exchanges developed this system to satisfy what they understood to be the requirements of the Commission's audit trail rule. The exchanges recognize that the CTR system will not capture accurately the trade times of every futures or options transaction. Indeed, in fast-paced, liquid futures and options trading, where simultaneous multiple executions frequently occur, it would be impossible to determine accurately the exact sequence of every transaction. Nevertheless, the exchanges believe the CTR system will accomplish the Commission's objective of an effective audit trail.

Based on that premise, the exchanges presented their CTR system to the Commission and provided each Commissioner with a personal demonstration of the CTR system's expected capabilities. The exchanges have also described in writing the CTR system for the Commission. As explained to the Committee in testimony during the hearing on reauthorization of appropriations for the CFTC, the exchanges provided these demonstrations and materials to the Commission in order to receive sufficient assurances from the Commission that the CTR system would satisfy the new audit trail regulation before the exchanges expended the substantial resources required to implement fully the CTR system.

At the hearings, Committee members thoroughly questioned Commission Chairman Phillips on the Commission's intentions with regard to the audit trail regulation and the CTR system. Chairman Phillips testified that the one-minute timing standard of the new regulation was intended to be a goal toward which the exchanges should strive and that it should not be interpreted or applied in its narrowest or most technical sense.

Chairman Phillips explained that the Commission's purpose in adopting the audit trail regulation was to create an effective audit trail. Chairman Phillips further stated that, based on the exchanges' representations, the Commission anticipates that the CTR system would be capable of complying with the Commission's audit trail regulation when the system is operational. Finally, Chairman Phillips testified that the exchanges would not be liable if they failed to capture the trade time of every trade executed on the floor of their exchanges. Indeed, Chairman Phillips testified that the Commission would be satisfied if the exchanges could capture 90 percent of the trade times, recognizing that in fast-paced markets the threshold compliance level could be reduced to reflect market reality.

Based on these representations from the exchanges and the Commission, the Committee understands that the exchanges now plan to proceed in good faith to implement their CTR system. The Committee applauds the exchanges' decision. The Committee anticipates that the Commission will administer its new audit trail regulation in a manner designed to accomplish the ultimate goal of an effective audit trail, and will not interpret the new regulation's one-minute timing requirement in its narrowest, most technical sense, consistent with the Commission's testimony before the Committee.

The Committee anticipates that the Commission and the exchanges will keep the Committee fully apprised of developments concerning the audit trail rule and the CTR system. The Committee is well aware that the audit trail issue has been a major controversy since the creation of the agency. The Committee is pleased that the Commission has moved forward on this issue, and expects the efforts in this area to produce even stronger public protections than exist today.

(4) Report Language Relating to Dual Trading:

The practice known as dual trading permits a floor broker to trade for his own account, or any account in which he has trading discretion, and also execute a customer's order for commodity futures contracts. Section 4j(1) of the Commodity Exchange Act required the Commodity Futures Trading Commission, within nine months after the effective date of the Commodity Futures Trading Act of 1974, to make a determination whether or not dual trading by floor brokers should be permitted. Section 4j(1) also empowers the Commission subsequently to determine that changes may be required with respect to its original determination.

After studying the issue, the Commission determined not to prohibit dual trading per se, but did adopt in 1977 trading standards for floor brokers. These standards generally require exchanges to have rules requiring their member floor brokers to execute customer orders before executing the brokers' own orders. The Commission subsequently adopted rules under Section 4c of the Act to extend these standards to the trading of commodity options.

The Committee is aware that the Commission recently has adopted new audit trail regulations to enhance its ability to reconstruct futures and options trading on the exchanges. These rules are designed to enable the exchanges and the Commission, among other things, more easily to detect violations of floor broker trading standards.

Nevertheless, the Committee is concerned that even with the new audit trail requirements, there may be dual trading abuses occurring on the floors of the exchanges in violation of Commission rules. Therefore, the Committee believes that, on implementation by the exchanges of their audit trail rules, the Commission should exercise its authority under the Commodity Exchange Act to determine whether the audit trail rules are adequate to detect such possible abuses, and whether any additional trading standards should be adopted for floor brokers or whether the practice known as dual trading by floor brokers should be prohibited.

(5) Report Language Relating to Commodity Trading Advisors:

Representatives of the life insurance industry have proposed that the definition of "commodity trading advisor" in the Commodity Exchange Act be amended to exclude any investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 whose advice concerning commodity interests is solely in connection with the management of institutional securities portfolios. The life insurance industry urged that such an exclusion is necessary to avoid duplicative and inappropriate regulation, and to put institutional investment advisers such as insurance companies on a par with banks and trust companies, which are already excluded from the definition of commodity trading advisor if their commodity advisory activities are solely incidental to the conduct of their business as banks and trust companies. Other witnesses supported the insurance companies' proposal.

The Commission opposed the proposed statutory exclusion as too broad. The Commission further indicated that it did not consider the proposed statutory amendment necessary in any event, since the Commission has existing authority under section 2(a)(1)(A) of the Act to not include within the definition of a commodity trading advisor "such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order." In this connection, the Commission advised the Committee that within the past year its staff received and affirmatively responded to two "no-action" requests from an insurance company regarding some of the problems that would be addressed by the proposed amendment. The Commission further advised the Committee that it is prepared, and has ample authority, to address the concerns of the life insurance industry as that industry becomes more active in the commodity markets.

The Committee believes that any insurance company subject to regulation by State insurance departments, any wholly-owned subsidiary, or any employee thereof, provided its commodity advisory activities are solely incidental to the conduct of the business of the insurance company as such, generally is not within the intent of the definition of the term "commodity trading advisor." The Committee similarly believes that any person who is excluded from the definition of the term "commodity pool operator" by Commission Rule 4.5 should be excluded from the commodity trading advisor definition, provided its commodity advisory activities are solely incidental to its operation of those trading vehicles for which Rule 4.5 provides relief. Relatedly, where the advisor advises an entity that is excluded from registration as a commodity pool under Rule 4.5 or is a Rule 4.5 qualifying entity and such advisor is subject to appropriate regulation under the Investment Advisers Act, that advisor should ordinarily be exempted from commodity trading advisor registration if its commodity advice is solely incidental to its business of providing securities advice to such entity and the advisor is not otherwise holding itself out as a commodity trading advisor. Therefore, the Committee urges the Commission to exercise its authority to adopt regulations in regard to these matters.

Should the Commission determine that registration of any such entity as a commodity trading advisor is required, the Committee expects that the Commission will use its existing authority to consider other appropriate relief. In this regard, the Committee is aware that the Commission has exercised its authority to limit, by exemption, those employees of otherwise regulated entities who must register as an associated person of a commodity trading advisor. The Committee further understands that the Commission has coordinated its activities with the Securities and Exchange Commission to eliminate duplicative requirements, for example, by deeming in appropriate cases compliance with SEC disclosure, recordkeeping, and reporting requirements as sufficient compliance with the Commission's corresponding commodity pool operator requirements. The Committee intends that the Commission will continue to provide this and such other relief as may be appropriate to applicants for registration as a commodity trading advisor or in any other registration category. On the other hand, the Committee does not expect the Commission to grant exempted commodity trading advisors any relief from the antifraud provisions of section 4o of the Act.

The Committee understands that rulemaking addressing these concerns may take some time for the Commission to develop and promulgate. Individual requests for exclusions or exemptions, consistent with the above guidelines, however, should be processed by the Commission as expeditiously as practicable. The Commission's experience with individual cases should facilitate the formulation of more general rulemaking.

(6) Report Language Relating to the Composition of the Governing Boards of Contract Markets:

During the hearings of the Subcommittee on Conservation, Credit, and Rural Development on reauthorization of appropriations for the Commodity Futures Trading Commission, witnesses testified that the several categories of futures market participants--including brokerage houses, commercial users such as farmers and other hedgers, floor traders, and the general public--currently are more fully represented on the boards of the commodities exchanges than they have been in the past. For example, three exchanges--the Chicago Board of Trade, the Chicago Mercantile Exchange, and the Kansas City Board of Trade--have added representatives of the agricultural community to their governing boards since the reauthorization of appropriations for the Commission in 1982, complementing steps other exchanges have taken to include public members on their boards. In addition, the futures industry's self-regulatory body, the National Futures Association, has attempted to make its governing board representative of all entities it is responsible for regulating.

Because the commodities exchanges are quasi-governmental bodies providing the sole mechanism through which futures contracts can be publicly traded in the United States, the Committee believes the movement in the commodities industry to broader representation, including representation by farmers and other users, is laudable. The Committee strongly believes the pendulum should not be allowed to swing in the other direction. Entities that enjoy an exclusive statutory franchise and have the authority to establish rules--limiting access to their markets, prescribing trading practices, and disciplining errant members--possess a public trust of sorts. They should not take actions that directly or indirectly make their governing boards less representative of the exchange community. Indeed, the Committee notes its view is shared by other entities concerned with the financial community: The National Association of Securities Dealers, Inc., like the National Futures Association, has attempted to make its board broadly representative of securities markets users. Also, when a major securities options exchange recently proposed to amend its rules to give greater control to a particular segment of market users, the Securities and Exchange Commission refused to approve the rule change.

In light of the significance of this matter, the Committee believes the Commission should monitor the exchanges to ensure that they not take actions that directly or indirectly make their governing boards less representative.

Emerson

Cost-Benefit Analysis Committee Report Language

In the past four years, the Commission has undertaken a number of ambitious and far reaching rulemakings. Futures exchanges as well as other industry participants complained that the Commission's rulemakings were not sufficiently focused to permit intelligent and meaningful public comment. In particular, the exchanges pointed out that many of these rulemakings were begun by the Commission without first considering whether the rulemaking proposals involved costs to the public that outweighed any possible benefit.

The Committee does not want to inhibit the Commission's ability to implement provisions of the Commodity Exchange Act through appropriate rulemaking proceedings. For this reason, the Committee did not adopt any specific statutory language directing the CFTC to perform a comprehensive cost-benefit analysis. Nonetheless, the Committee fully appreciates that no CFTC rule should be adopted if its costs outweigh the benefits to the public and other parties who rely on the CFTC regulatory scheme. The Committee therefore believes that the Commission should consider, whenever appropriate, the cost-benefit implications of proposed and final rules in order to promote more effective and efficient CFTC rulemaking.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date May 8, 1986

(Sub) Committee: Tobacco and Peanuts

Public Hearing

met at 9:30 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the Department of Agriculture's determination of 1986 Flue-cured and Burley quotas; implementation of the deficit reduction program with respect to the tobacco program and potential marketing disruptions; and the issue of nonauction tobacco sales.

The following Members were present:		Also Present
Mr. Rose	Mr. Hopkins	Mr. Valentine
Mr. English	Mr.	Mr.
Mr. Whitley	Mr.	Mr.
Mr. Tallon	Mr.	Mr.
Mr. Thomas	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Fred Clark, Staff Assistant
Rick Kirchhoff, Minority Consultant
Heidi Pender, Subcommittee Staff Director
Joan Teague Rose, Staff Consultant
Francie Monaghan, Staff Assistant

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Witnesses:

Mr. Richard Goldberg, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

Mr. Robert Miller, Tobacco and Peanuts Group Leader, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

Mr. Dallas Smith, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S.Department of Agriculture, Washington, D.C.

accompanied by: Mr. Jack Forlines, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, Washington, D.C.

Mr. Dan Stevens, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.

Mr. Paul Simmons, Office of General Counsel, U.S. Department of Agriculture, Washington, D.C.

Mr. Lionel Edwards, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

Mr. Ralph Linden, Office of General Counsel, U.S. Department of Agriculture, Washington, D.C.

Mr. Jerry Kotwas, Assistant Chief, Foreign Trade Division, Census Bureau, Washington, D.C.

Mr. Fred Bond, General Manager, Flue Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina

Mr. Stanley L. Temko, Covington & Burling, Washington, D.C.

Thursday, May 8, 1986
Tobacco and Peanuts Subcommittee
Public Hearing
Review of USDA's determination of 1986 Flue-cured and Burley quotas; implementation of the deficit reduction program on tobacco program and potential marketing disruptions, and the issue of nonauction tobacco sales.

Chairman Rose called the meeting to order at 9:30 a.m. to give Administration witnesses an opportunity to comment on the effects of the Balanced Budget and Emergency Deficit Control Act of 1985 on the tobacco and peanut price support programs. Testimony also included remarks on the determination of 1986 flue-cured and burley quotas and the issue of nonauction sales.

Mr. Richard Goldberg, the only witness to present a prepared statement, was given permission to be excused due to a schedule conflict. Mr. Rose then asked Mr. Robert Miller to read Mr. Goldberg's testimony. At various times during the reading, Mr. Rose and other members of the Subcommittee asked questions on pertinent sections of the statement.

Congressman Hopkins took the Chair just prior to adjournment to briefly question the witnesses about certain aspects of the peanut price support program. Mr. Hopkins then adjourned the meeting at 11:27 a.m., to reconvene subject to the call of the Chair.

Francie Monaghan
Francie Monaghan

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, May 8, 1986

~~(Sub)~~ Committee: Full

Business Meeting

met at 9:45 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of agricultural proposals to omnibus trade legislation

The following Members were present:

Mr. de la Garza
Mr. Rose
Mr. Bedell
Mr. Panetta
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Tallon
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr.
Mr.

Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
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Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Anita Brown, Staff Assistant
Tim Galvin, Subcommittee Staff Director
Glenda Temple, Clerk

Witnesses:

Present to respond to questions:

1. Mr. Leo Mayer, Associate Administrator, Foreign Agricultural Service, U.S. Department of Agriculture
2. Mr. Doug Bellis, Office of Legislative Counsel, U.S. House of Representatives
3. Mr. Pat Broderick, Office of Legislative Counsel U.S. House of Representatives

Thursday, May 8, 1986
Full Committee
Business Meeting
Agricultural proposals to omnibus trade legislation

Action Taken:

-- By voice vote Daschle proposal clarifying relief authorities agreed to.

-- Without objection Coleman amendment to Lewis proposal adopted.

-- By voice vote Lewis proposal, as amended, on reciprocity problems with trading partners approved.

-- By voice vote Bedell proposal expressing opposition to certain import restrictions imposed by European Community which adversely affect U.S. exports approved, as modified.

-- By voice vote Coelho proposal on reporting requirements agreed to.

-- Without objection Panetta suggestion to Coelho proposal approved.

-- By voice vote Coelho proposal on establishment of office to assist victims of unfair trade practices, as amended, agreed to.

-- By voice vote Volkmer proposal supporting implementation of barter programs contained in farm bill approved.

-- By voice vote de la Garza proposal adding suggestions of the Agricultural Trade and Export Policy Commission adopted.

-- Without objection Coelho suggestion on report language or floor colloquy on honey imports agreed to.

-- By voice vote Emerson proposal urging that AID not purchase products which would displace U.S. exports adopted.

-- By voice vote Panetta motion to approve language for inclusion in the omnibus trade legislation approved in the presence of a quorum.

Chairman de la Garza called the meeting to order to continue considering agricultural proposals to omnibus trade legislation (see minutes of May 6, Full Committee and attached summary of action to date). The Chairman advised that he had clarified that the language approved by the Agriculture Committee and the other Committees with jurisdiction over trade matters would be submitted to the Rules Committee, who would then proceed to try to put a bill together, working out jurisdictional claims.

Thursday, May 8, 1986
Full Committee
Business Meeting
Agricultural proposals to omnibus trade legislation

Mr. Daschle offered the attached proposal which would clarify the relief authorities under sections 22, 201 and 301 dealing with agricultural imports and exports. Discussion occurred and by a voice vote the proposal was agreed to.

Mr. Lewis offered the attached sense of the Congress language to look at reciprocity problems with Japan and other countries. Discussion occurred and Mr. Coleman suggested that the reference to Japan be deleted and that the phrase "trading partners of the United States" be inserted in lieu thereof. Without objection the Coleman suggestion was approved; whereupon the Lewis language, as amended, was adopted by voice vote.

Chairman de la Garza advised that he had redrafted the proposals which had been suggested by the Agricultural Trade and Export Policy Commission. A copy of the draft language and summary is attached. The Chairman asked that the Members look the proposals over and he would bring them to a vote later.

Mr. Bedell offered the attached proposal which would express opposition to certain import restrictions imposed by the European Community that adversely affect U.S. agricultural exports, and urge the President to use to the fullest extent his authority to respond to such practices. Discussion occurred, and by a voice vote the proposal was agreed to. Mr. Bedell asked that staff make a technical change to insert "House of Representatives" in lieu of "Senate" wherever it appears, and there was no objection.

Mr. Coelho offered two amendments. The first proposal would include in the reporting requirements of the Secretary of Agriculture that the Secretary include the results that are found in relation to unfair import competition to the extent that U.S. agriculture is adversely affected or materially injured. By a voice vote the proposal was agreed to.

The second Coelho amendment would expand and define the current establishment of the office within USDA which would provide assistance to victims of unfair trade practices. Discussion occurred. Mr. Panetta raised a question that if agencies do not respond, the recommendation submitted would be presumed correct. Mr. Coelho asked unanimous consent that staff be directed to prepare appropriate language and there was no objection. By a voice vote the proposal was then adopted.

Mr. Volkmer offered sense of the Congress language which would emphasize support for implementation of the barter programs of the Food Security Act of 1985 (secs. 1129 and 1167). Discussion occurred and by a voice vote the proposal was approved.

Thursday, May 8, 1986
Full Committee
Business Meeting
Agricultural proposals to omnibus
trade legislation

Discussion occurred on the package distributed by Chairman de la Garza and by a voice vote the proposal was agreed to. Mr. Coelho asked that the Committee report reflect the Committee's intent that the study reflect the impact of imported honey on the domestic producer and the problems that imports of honey have caused. There was no objection to including such language in the event a report is prepared, but that might depend on the Rules Committee since they would probably be the Committee to prepare a report. Mr. Coelho stated that he would be satisfied with a colloquy on the House floor if report language were not possible, and there was no objection.

Mr. Emerson offered the attached proposal which would express the sense of Congress that the Agency for International Development should not spend tax dollars on foreign agricultural products that would have the effect of displacing U.S. exports. Discussion occurred and by a voice vote the proposal was approved.

Mr. Panetta moved that the language approved by the Committee be reported to the Rules Committee for incorporation into the omnibus trade legislation. By a voice vote the proposal was approved in the presence of a quorum (22 Members present and voting). Staff was given authority to make any technical changes necessary, and at 10:30 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

Summary of Amendment Offered by Mr. de la Garza

Title I--Improvement of Agricultural Trade Policy and Market Development Activities

Section 101 states that it is the purpose of this title to increase the effectiveness of the USDA in agricultural trade policy formulation and implementation.

Section 102 would designate the USDA as the lead agency within the Federal Government with respect to all matters concerning agricultural trade.

Section 103 would require the Secretary to help coordinate actions and programs of other Federal agencies that may affect agricultural trade.

Section 104(a) would establish within the USDA the position of Under Secretary for Trade and International Affairs. Section 104(b) would establish within the USDA the position for Under Secretary of Commodity Programs. Section 104(c) would authorize the President to appoint a maximum of two additional Assistant Secretaries.

Section 105 would make conforming amendments to title 5 of the U.S. Code.

Section 106 would transfer the International Economics Division of ERS and the World Agricultural Outlook Board to the FAS.

Section 107 would establish in USDA the Office of the General Sales Manager with responsibility over certain programs now performed by FAS.

Section 108 would establish an office in USDA to monitor and study agricultural trade practices carried out by other nations.

Section 109 would require the Secretary to establish an office to undertake actions to help citizens damaged by unfair trade practices.

Section 110 would require the Secretary to provide technical assistance to the USTR in trade negotiations.

Section 111 would require the Secretary to prepare and the President to submit to Congress with each year's budget a Long Term Agricultural Trade Strategy Report.

Section 112 states that it is the policy of the U.S. to use food aid and agriculturally-related foreign economic assistance to develop markets for U.S. agricultural commodities.

Section 113 requires annual reports by the Secretary on the extent that food aid programs have been used to enhance agricultural trade in the previous year.

Section 114 would establish an office of Food Aid Policy in the USDA.

Section 115 would allow the Secretary to provide additional commodities to recipients of assistance under P.L. 480 title I agreements not to exceed 10% of the amount provided under the agreement, to cover market development costs of cooperators.

Section 116 encourages the Secretary to expand the number of agricultural counselors and attaches in other nations.

Section 117 would grant personnel hiring authority to USDA in foreign countries.

Section 118 provides for compliance with the Budget Act.

Title II--Domestic Markets for Agricultural Commodities and Products

Section 203 would require a study on whether imports of honey tend to interfere with the domestic honey price support system.

Section 204 would require a study of the effect of rose imports on the domestic rose growing industry.

c

BEDELL096

99TH CONGRESS
2D SESSION

H. CON. RES. ____

IN THE HOUSE OF REPRESENTATIVES

Mr. BEDELL (for himself, , and)
submitted the following concurrent resolution; which was
referred to the Committee on

____

CONCURRENT RESOLUTION

Expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect United States agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices.

BEDELL096

Whereas, as part of the terms under which Spain and Portugal joined the European Community in January of this year, the European Community has imposed quotas on oilseeds and oilseed products in Portugal, in violation of the General Agreement on Tariffs and Trade (GATT);

Whereas the European Community has imposed a quota requiring that Portugal purchase at least 15.5 per centum of its grain from other European Community countries, in violation of the GATT;

Whereas the European Community has replaced GATT-bound 20 per centum tariffs on corn and grain sorghum imports entering Spain with the European Community's variable levy system, which is currently equivalent to a tariff of more than 100 per centum, before negotiating compensation as agreed to previously and directed by international trade rules;

Whereas the restrictions imposed by the European Community will impair access for as much as $1,000,000,000 worth of United States agricultural products to markets in Portugal, and Spain and adversely affect the economic livelihood of United States farmers and related industries;

Whereas, despite Cabinet-level approaches to the European Community in recent months, the European Community has been unwilling to rescind the illegal quotas or to compensate the United States for the damage caused by the higher tariffs;

Whereas prior enlargements of the European Community in 1973 and 1981 have adversely affected United States agricultural exports to the Community;

Whereas the President on March 31 announced his intention to use existing authority to respond to the restrictions of the European Community by imposing quotas and tariff increases o by withdrawing tariff bindings to produce equivalent restrictive effects or comparable loss of trade on European Community imports into the United States; and

Whereas the President's proposed actions to defend legitimate United States trade interests are consistent with his belie in a free but fair trade policy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that--

(1) the administration should continue to firmly oppose actions by the European Community to (A) impose quotas on oilseeds and oilseed products in Portugal, (B impose a grain purchase requirement quota on Portugal, and (C) place variable levies on corn and grain sorghum entering Spain before negotiating compensation; and

(2) unless the European Community rescinds the trade-restrictive measures referred to in clause (1) or the United States receives prompt and complete compensation for any loss of trade resulting from the enlargement of the European Community, the administrati should take actions, such as the President has announce

to impose trade restrictions on a sufficient value of exports of the European Community to the United States to reestablish the balance of concessions under the GATT and other international trade agreements.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the United States Trade Representative, the Head of the Delegation of the European Community to the United States, and the Ambassadors to the United States for each of the member states of the European Community.

AMENDMENT BY TONY COELHO

On page 9, line 14, redesignate (B) as (C) and insert the following:

"(B) result in unfair import competition to the extent that U.S. agriculture is adversely affected or materially injured;"

AMENDMENT BY TONY COELHO

On page 16, add the following new subsections:

"(4)(i) Any finding of such unfair trade practices or determination of injury shall be reported to the appropriate federal agency or agencies, together with a recommendation by the Secretary of Agriculture with regard to what action(s) should be initiated under existing trade laws as may be amended.

(ii) Upon receipt of such findings and recommendation, the appropriate federal agency or agencies shall consult with the Secretary of Agriculture with regard to what action(s), if any, will be initiated and the reasons therefore."

(iii) Upon initiation of any action by the appropriate federal agency or agencies or during the pendency of any import relief proceeding, the Office shall become a party to the action or proceeding and the appropriate agency or agencies shall seek the recommendation of the Office as to the appropriate action to be taken under the circumstances. The recommendation submitted by the Office to the appropriate federal agency or agencies shall be regarded as presumptively correct.

AMENDMENT OFFERED BY MR. VOLKMER

At the appropriate place insert the following new section:

SEC. ___. It is the sense of Congress that the Department of Agriculture should expedite the implementation of sections 1129 and 1167 of the Food Security Act of 1985 (P.L. 99-198), relating to the barter of agricultural commodities. Congress recognizes the importance of barter programs in expanding agricultural trade, and emphasizes this importance to the Department.

AMENDMENT OFFERED BY MR. EMERSON

Sec. 210

Insert a subsection (c)

(c)SENSE OF THE CONGRESS.--It is the sense of the Congress that the Agency for International Development should refrain from providing assistance for the production or marketing in any country of agricultural commodities (or products thereof) which would promote competition in international markets with U.S. exports of the same commodities (or products thereof).

SUMMARY OF PROPOSALS APPROVED
MARKUP ON AGRICULTURAL TRADE LEGISLATION
May 6, 1986

(1) Foreign-Owned Dairies: prohibits foreign-owned dairies financed by industrial development bonds from benefiting under the Federal milk marketing order program.

(2) Tobacco, Material Interference: requires that producer costs under the No Net Cost tobacco program be considered in determining material interference under section 22.

(3) Generalized System of Preferences: sense of Congress that any country that discriminates against U.S. agricultural products (particularly tobacco) should not benefit from the GSP program.

(4) Export Enhancement Program: reestablishes priorities for participation in the EEP, and requires monthly reporting to Congress.

(5) Reciprocity: when the Secretary determines that a country is using unfair trading practices, requires the President to implement similar practices against that country's imports into the U.S.

(6) Canadian Beef Imports: imposes a temporary moratorium on Canadian beef imports while the ITC studies the effect of such imports on U.S. producers.

(7) Lamb Products Imports: includes lamb imports under the Meat Import Act, and requires consideration of high seasonal market penetration in anti-dumping and countervailing duty cases.

(8) Live Cattle and Pork: includes live cattle and pork under the Meat Import Act.

(9) Grain Inspection: prohibits the addition of dockage or foreign material to export grain.

(10) Import Inventory: requires the compilation of statistics on imports of agricultural products as compared to domestic production.

(11) Ethanol Imports: closes loopholes in the rules limiting imports of ethanol.

Amendment #1

AMENDMENT OFFERED BY

MR. DASCHLE OF SOUTH DAKOTA

On page 5, following line 4, insert the following new subsection:

"(c)(1) Upon filing of a petition for import relief for the purpose of facilitating orderly adjustment to import competition under trade laws of the United States, within 30 days the President shall take appropriate and feasible action within his authority to enforce the rights of the United States under any trade agreement and obtain the elimination of unfair trading acts, policy or practices.

"(2) Any actions taken by the President under subsection (1) shall be devised in order to affects goods or services of the foreign country involved in an amount that is equivalent in value to the burden or restriction being imposed by that country on goods or services of the United States.

"(3) The President shall take the actions in subsections (1) and (2) unless the President finds that:

(i) the foreign country has agreed to eliminate or phase out the act, policy, or practice or has agreed to an immediate solution, that is satisfactory to the President, to the burden or restriction on United States commerce,

(ii) that it is impossible to achieve the results described in (i), as appropriate, but the foreign country agrees to provide the United States compensatory trade benefits that are satisfactory to the President.

2

Amendment to Trade Bill, H.R. ______

Offered by Mr. Lewis

SEC. ____. SENSE OF CONGRESS -- ACTION IN RESPONSE TO FOREIGN IMPORT RESTRICTIONS ON UNITED STATES CITRUS FRUITS AND BEEF PRODUCTS.

(a) FINDINGS. -- The Congress finds that --

(1) Japan, and other trade partners of the United States, are engaging in unreasonable, unjustifiable, and discriminatory acts, policies, and practices, including the use of import quotas, that tend effectively to prohibit or unreasonably burden United States exports of --

(A) oranges, grapefruit, and other frozen citrus products; and

(B) fresh, chilled, and frozen beef and other beef products; and

(2) such acts, policies, and practices deny access to such markets for United States producers of such exports, reduce agricultural exports and farm income, and contribute to the United States trade deficit and the Federal budget deficit.

(b) SENSE OF CONGRESS. -- It is the sense of the Congress that if a country is found to engage, in violation of the General Agreement on Tariffs and Trade, in any such acts, policies, and practices against any such United States exports the President should take steps, including but not limited to the imposition of import fees and duties, which will result in the exclusion of the importation of similar or other products from such country found to be in violation of the General Agreement on Tariffs and Trade into the United States until such acts, policies, and practices are eliminated.

MDB17

AMENDMENT TO THE AGRICULTURAL TRADE BILL
OFFERED BY MR. DE LA GARZA

Insert at an appropriate place the following:

TITLE I--IMPROVEMENT OF AGRICULTURAL TRADE POLICY AND MARKET DEVELOPMENT ACTIVITIES

SEC. 101. PURPOSE OF TITLE.

It is the purpose of this title to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers participate in international agricultural trade, by reorganizing and strengthening the operations of the Department of Agriculture in these areas.

SEC. 102. DESIGNATION OF THE DEPARTMENT OF AGRICULTURE AS LEAD AGENCY FOR AGRICULTURAL TRADE.

(a) IN GENERAL.--Except as provided in subsection (b), the Department of Agriculture is designated the lead agency within the Federal Government with respect to all matters concerning agricultural trade and agricultural trade policy.

(b) EXCEPTION.--The designation made in subsection (a) does not affect or alter the responsibilities and powers of the United States Trade Representative, nor limit the exercise by the Department of Commerce and the International

Trade Commission of the responsibilities and authority assigned them with respect to the regulation of United States Agricultural imports.

SEC. 103. COORDINATION BY THE SECRETARY OF AGRICULTURE.

The Secretary of Agriculture shall through such mechanism as the President shall establish by executive order, consult with the appropriate officials of the other agencies of the Federal Government to coordinate actions and programs of such agencies affecting agricultural trade policy with the programs of the Department of Agriculture and harmonize such actions and programs with the agricultural trade policy of the United States.

SEC. 104. REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE.

(a) UNDER SECRETARY FOR TRADE AND INTERNATIONAL AFFAIRS.--(1) The President, by and with the advice and consent of the Senate, shall appoint in the Department of Agriculture an Under Secretary of Agriculture for Trade and International Affairs (hereinafter in this title referred to as the ``Under Secretary for Trade´´).

(2) The Under Secretary for Trade shall--

(A) assume the duties relating to international affairs of the Under Secretary of Agriculture for International Affairs and Commodity Programs;

(B) serve as a member of--

(i) the Board of Directors of the Commodity

Credit Corporation;

(ii) the Trade Policy Review Group; and

(iii) the Subcommittee on Food Aid of the Development Coordination Committee;

(C) direct--

(i) all programs and duties performed by the Office of International Cooperation and Development;

(ii) all programs or duties performed by the International Transportation Service Branch of the Office of Transportation; and

(iii) such programs or duties currently assigned to the Forest Service, the Soil Conservation Service, the Food Safety and Inspection Service, the Federal Grain Inspection Service, the Animal and Plant Health Inspection Service, and other agencies within the Department of Agriculture as the Secretary of Agriculture finds to be related to agricultural export sales, market development, and relevant technical assistance; and

(D) perform such other functions and duties as may be required by law or prescribed by the Secretary of Agriculture.

(b) UNDER SECRETARY FOR COMMODITY PROGRAMS.--(1) The President, by and with the advice and consent of the Senate, shall appoint in the Department of Agriculture an Under

Secretary of Agriculture for Commodity Programs.

(2) The Under Secretary of Agriculture for Commodity Programs shall--

(A) assume the duties relating to commodity programs of the Under Secretary of Agriculture for International Affairs and Commodity Programs;

(B) serve as a member of the Board of Directors of the Commodity Credit Corporation; and

(C) perform such other functions and duties as may be required by law or prescribed by the Secretary of Agriculture.

(c) CONFORMING REPEAL.--Section 501(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 2211a(a)) is repealed.

(d) ADDITIONAL ASSISTANT SECRETARIES OF AGRICULTURE.--The President, by and with the advice and consent of the Senate, may appoint in the Department of Agriculture up to two additional Assistant Secretaries of Agriculture to assist the Under Secretary for Trade.

SEC. 105. CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended by--

(1) in section 5314, striking out ``Under Secretary of Agriculture for International Affairs and Commodity Programs.''

and inserting in lieu thereof the following:

``Under Secretary of Agriculture for Commodity Programs.

``Under Secretary of Agriculture for Trade and International Affairs.''; and

(2) in section 5315, striking out ``Assistant Secretaries of Agriculture (7).'' and inserting in lieu thereof ``Assistant Secretaries of Agriculture (9)''.

SEC. 106. TRANSFER OF ENTITIES TO THE FOREIGN AGRICULTURAL SERVICE.

The International Economics Division of the Economic Research Service and the World Agricultural Outlook Board, of the Department of Agriculture shall be entities within the Foreign Agricultural Service of the Department of Agriculture.

SEC. 107. ESTABLISHMENT OF THE GENERAL SALES MANAGER'S OFFICE.

(a) ESTABLISHMENT.--The Secretary of Agriculture shall establish in the Department of Agriculture an office to be known as the ``Office of the General Sales Manager'' and appoint a General Sales Manager to head such office. The General Sales Manager shall be under the directions of the Under Secretary for Trade.

(b) DUTIES.--The General Sales Manager shall assume responsibility for all programs or duties performed by the Foreign Agricultural Service with respect to--.

(1) export sales;

(2) market development;

(3) agricultural trade offices;

(4) the requirements of titles I and III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.); and

(5) food aid.

SEC. 108. ESTABLISHMENT OF OFFICE TO MONITOR TRADE PRACTICES.

(a) ESTABLISHMENT WITHIN THE DEPARTMENT OF AGRICULTURE.--The Secretary of Agriculture shall establish an office within the Department of Agriculture to carry out the duties described in subsection (b) under the direction of the Under Secretary for Trade.

(b) DUTIES.--The office established under subsection (a) shall--

(1) continuously monitor and study trade practices carried out by other nations to promote the export of agricultural commodities and products; and

(2) submit quarterly reports of its findings to the Secretary of Agriculture.

(c) REPORTING BY THE SECRETARY.--(1) Within 15 days after receiving a report under subsection (b), the Secretary of Agriculture shall submit to the committees listed in paragraph (2) any report received under subsection (b)(2), together with the Secretary's findings and recommendations with respect to the level of subsidies provided by other nations and the United States to promote the export of agricultural commodities and products.

(2) Items described under paragraph (1) shall be reported to--

(A) the Committees on Agriculture, Nutrition, and Forestry, the Committee on Foreign Relations, and the Committee on Finance of the Senate; and

(B) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives.

SEC. 109. ESTABLISHING AN OFFICE TO PROVIDE ASSISTANCE TO VICTIMS OF UNFAIR TRADE PRACTICES.

(a) ESTABLISHMENT WITHIN THE DEPARTMENT OF AGRICULTURE.--The Secretary of Agriculture shall establish an office within the Department of Agriculture to carry out the duties described in subsection (b) under the direction of the Under Secretary for Trade.

(b) DUTIES.--The office established under subsection (a) shall take the following actions with respect to United States citizens and organizations damaged by unfair agricultural trade practices and policies:

(1) The Office shall assist such persons in preparing cases before--

(A) the United States Trade Representative;

(B) the International Trade Commission;

(C) the United States Department of Commerce;

(D) the International Court of Trade; and

(E) any other similar agency.

(2) The Office shall provide and update information to such persons regarding the incidence and severity of such practices and policies.

(3) The Office shall inform such persons of any adverse effect on them caused by such practices and policies of which they are not aware.

(c) REPORT.--The Secretary of Agriculture shall submit, with the information described in section 108(c), a report of the assistance provided under this section.

SEC. 110. PROVISION OF TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 111. LONG TERM AGRICULTURAL TRADE STRATEGY REPORTS.

(a) PREPARATION; MATTERS TO BE INCLUDED.--(1) The Secretary of Agriculture shall prepare, and the President shall submit together with the budget for each fiscal year, a Long Term Agricultural Trade Strategy Report establishing recommended policy and spending goals for United States agricultural trade and exports for 1-year, 5-year, and 10-year periods, beginning on October 1 of the next fiscal year. Each such report shall include the following:

(A) Findings with respect to trends in the comparative position of the United States and other nations in the export of agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products.

(B) Findings with respect to new developments in research conducted by other nations that may affect the competitiveness of United States agricultural commodities and products.

(C) Findings and recommendations with respect to the marketing in nonmarket economies of United States agricultural commodities and products.

(D) The agricultural trade goals for every agricultural commodity and value-added product produced in the United States for the period in question, expressed in both physical volume and monetary value.

(E) Recommended Federal policy and programs to achieve the agricultural trade goals.

(F) Recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet the agricultural trade goals.

(G) Recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet the agricultural trade goals.

(H) Recommended long-term strategies for growth in agricultural trade and exports--

(i) taking into account United States domestic competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(ii) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(2) Provisions of each Long Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such programs for such fiscal year, and shall be submitted in addition to the budget request for other programs of the Department of Agriculture for such fiscal year.

(3) The President shall include in each Long Term Agricultural Trade Strategy Report recommendations for such changes in legislation governing international programs of the Department of Agriculture as are required to meet the long term goals established in the Report.

(b) IDENTIFICATION OF CHANGES THAT MAY AFFECT PREVIOUS REPORTS.--The President, in each succeeding annual Long Term Agricultural Trade Strategy Report after the first such report, shall identify any such recommendations that might modify the long term policy contained in any previous such report.

(c) ESTABLISHMENT OF OFFICE.--The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Agricultural Trade Policy Planning and Evaluation. Such office shall coordinate the preparation of the President's Long Term Agricultural Trade Strategy Report.

SEC. 112. DECLARATION OF POLICY RESPECTING FOOD AID AND MARKET DEVELOPMENT.

It is the policy of the United States to better use food aid and agriculturally related foreign economic assistance programs to develop markets for United States agricultural commodities and products.

SEC. 113. REPORTING BY THE SECRETARY OF AGRICULTURE.

(a) REPORTING ON CERTAIN PROGRAMS.--The Secretary of

Agriculture shall report annually to Congress on the extent that food aid and agriculturally related foreign economic assistance programs of the previous year, other than direct feeding or emergency food aid, that are administered by Federal agencies or by nongovernmental entities serve direct market development objectives for United States agricultural commodities and products.

(b) SCOPE OF REPORTING REQUIREMENT.--The programs referred to in subsection (a) include--

(1) programs under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) programs under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) and the Food for Progress Act of 1985 (7 U.S.C. 1736o); and

(3) technical and economic assistance programs carried out by United States Agency for International Development.

SEC. 114. ESTABLISHMENT OF OFFICE OF FOOD AID POLICY.

(a) ESTABLISHMENT.--The Secretary of Agriculture shall establish in the Department of Agriculture the Office of Food Aid Policy (hereinafter in this section referred to as the ``Office'').

(b) DIRECTOR.--The Secretary of Agriculture shall appoint a director of the Office who shall--

(1) serve under the direction of the General Sales

Manager;

(2) develop in cooperation with the director of the Office of Agricultural Trade Policy Planning and Evaluation a comprehensive strategy for coordinating agriculturally related foreign economic assistance, food aid, and market development objectives for United States agricultural commodities and products;

(3) monitor the compliance of programs and policies of Federal agencies and related entities with the market development objectives of the Department of Agriculture; and

(4) serve as the principal staff representative of the Secretary of Agriculture in deliberations of the staff working group of the Subcommittee on Food Aid of the Development Coordination Committee.

SEC. 115. AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended by inserting after section 102 (7 U.S.C. 1702) the following:

``SEC. 102A. To carry out the policies set forth in section 2 of this Act, the Secretary may add to the volume of commodities provided through any agreement made under this title additional commodities from stocks of the Commodity Credit Corporation not to exceed 10 percent of the volume of commodities to be provided under such agreement before such addition is made. Such additional commodities shall be sold for foreign currencies, with the proceeds of such sale to be used by cooperator organizations to cover local market development costs.''.

SEC. 116. INCREASING THE NUMBER OF USDA REPRESENTATIVES IN OTHER NATIONS.

To improve formulation and implementation of agricultural trade policy and collection of international economic information, the Secretary of Agriculture is encouraged to expand the number of agricultural counselors, attaches, assistant attaches, and other diplomatic representatives of the Department of Agriculture assigned to posts in other nations. The Secretary of Agriculture, to the maximum extent possible, shall assign agricultural marketing specialists or agricultural trade officers in foreign posts that offer market potential for United States agricultural commodities or products and that are not currently served by an Agricultural Trade Office, agricultural trade officer, or agricultural marketing specialist.

SEC. 117. DEPARTMENT OF AGRICULTURE CONTRACT AUTHORITY FOR INDIVIDUALS ABROAD.

The Secretary of Agriculture may contract with individuals outside the United States for personal services to be performed outside the United States. Such individuals shall not be regarded as employees of the United States Government under any law, including but not limited to the laws administered by the Office of Personnel Management.

SEC. 118. LIMITATION ON SPENDING AUTHORITY.

Any new spending authority created by the amendments made by section 105 shall be effective for any fiscal year only to the extent provided for in advance in appropriation Acts.

TITLE II--DOMESTIC MARKETS FOR AGRICULTURAL COMMODITIES AND PRODUCTS

SEC. 201. STUDY RELATING TO HONEY.

(a) STUDY.--The Secretary of Agriculture shall conduct a study to determine the impact of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.-- Not later than 60 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 202. ROSE STUDY AND REPORT.

(a) STUDY.--The Secretary of Agriculture, in conjunction with the United States Trade Representative, not later than 120 days after the date of enactment of this Act, shall complete a study to determine--

(1) the effect of rose imports during the period beginning January 1, 1982, and ending with the most recent calendar quarter for which information is available, into the United States on the domestic rose growing industry; and

(2) the extent and nature of any foreign subsidies provided to such imports.

(b) REPORT.--The Secretary shall report the results of the study conducted under subsection (a), as soon as the study is completed, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, May 13, 1986

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 10:05 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the effects of acid deposition and other air pollutants on forest productivity -- H.R. 2631 and H.R. 2963

The following Members were present:

Mr. Whitley
Mr. Weaver
Mr. Olin
Mr. Stallings
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Chappie
Mr. Smith
Mr. Schuette
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
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Mr.

Staff Present:
Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Jim Lyons, Subcommittee Staff Director
John Conrad, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Panel - The Status of European Forests

   Mr. Hugo von Sydow, Forest Industry Attache to the U.S. and Canada, Swedish Embassy, Washington, D.C.
   Mr. Don Hinrichsen, Editor in Chief, World Resources 1986, World Resource Institute, Washington, D.C.

2. Panel - The Status of Canadian Forests

   Dr. Allen L. Torrenueva, Environmental Studies and Assessments Department, Ontario Hydro, Toronto, Ontario, Canada
   Dr. George Tomlinson II, Senior Scientific Advisor, Domtar, Inc., Montreal, Ontario, Canada

3. Panel - The Status of U.S. Forests

   Dr. Ellis B. Cowling, Associate Dean for Research, School of Forest Resources, North Carolina State University, Raleigh, North Carolina
   Mr. Joe P. McClure, Project Leader, Forest Inventory Analysis, Southeastern Forest Experiment Station, Asheville, North Carolina

4. Panel - Air Pollutants Affecting Forest Productivity

   Dr. Samuel B. McLaughlin, Senior Research Staff Member, Oak Ridge National Laboratory, Oak Ridge, Tennessee
   Dr. Leonard H. Weinstein, Program Director for Environmental Biology, Boyce Thompson Institute, Cornell University, Ithaca, New York
   Professor William N. Smith, School of Forestry and Environmental Studies, Yale University, New Haven, Connecticut

Statement Submitted for the Record:

1. Herr Heinz Seipel, Counselor, Science and Technology, Embassy of the Federal Republic of Germany, 4645 Reservoir Road, N.W., Washington, D.C. 20007-1998

Tuesday, May 13, 1986
Subcommittee on Forests, Family
Farms, and Energy
Public Hearing - a.m.
Review effects of acid deposition
and other air pollutants on
forest productivity
H.R. 2631 and H.R. 2963

Chairman Whitley called the meeting to order for the purpose of considering the effects of acid deposition and other air pollutants on forest productivity. Mr. Whitley advised that due to the need to take some action in this area, two bills were pending, H.R. 2631 and H.R. 2963, and that he planned to schedule a mark-up session in the near future. He stated that there was a need to expand current research on the effects of atmospheric pollutants, not just acid rain, on forest environments. Messrs. Morrison, Weaver, Smith, and de la Garza also made opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on the above-cited hearing. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 12:05 p.m. to enable Members to respond to a recorded vote on the House floor. At 1:00 p.m. the meeting was adjourned to reconvene at 2:00 p.m. this date to hear additionally-scheduled witnesses.

Glenda Temple
Glenda Temple

U.S. House of Representatives

Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, May 13, 1986

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 2:05 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the effects of acid deposition and other air pollutants on forest productivity -- H.R. 2631 and H.R. 2963

The following Members were present:

Mr. Whitley
Mr. Weaver
Mr. Olin
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Schuette
Mr.
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Mr.

Staff Present:
Jim Lyons, Subcommittee Staff Director
John Conrad, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Panel - Private Sector Research

   Dr. Benjamin B. Stout, National Program Manager, Air Quality/Forest Health Investigative Program, National Council of the Paper Industry for Air and Stream Improvement, Inc., New York, New York

   Dr. Ernest Bondietti, Manager, Integrated Forest Study of the Effects of Atmospheric Deposition, Environmental Sciences Division, Oak Ridge National Laboratory, Oak Ridge, Tennessee

   Dr. Christopher Bernabo, President, Science and Policy Associates, Washington, D.C.

2. Panel - Federal Research Program

   Mr. R. Max Peterson, Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Charles W. Philpot, Associate Deputy Chief for Research, U.S. Forest Service
   Dr. David Radloff, Director, Terrestrial Effects Program, U.S. Forest Service
   Dr. Ann Carey, National Program Manager, Forest Response Research Program, U.S. Forest Service

   Dr. Paul L. Ringold, Associate Director for Research, National Acid Precipitation Assessment Program, Washington, D.C.

   Mr. Donald J. Ehreth, Acting Assistant Administrator for Research and Development, Environmental Protection Agency, Washington, D.C.
   Acc. by: Dr. Courtney Riordan, Director of Acid Deposition, Environmental Monitoring and Quality Assurance, Environmental Protection Agency

Tuesday, May 13, 1986
Subcommittee on Forests, Family
Farms, and Energy
Public Hearing - p.m.
Review effects of acid deposition
and other air pollutants on
forest productivity
H.R. 2631 and H.R. 2963

Chairman Whitley called the meeting to order to continue receiving testimony on the effects of acid deposition and other air pollutants on forest productivity. The witnesses listed on page 2 of these minutes were recognized for their prepared statements, and following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 3:25 p.m. to enable Members to respond to a recorded vote on the House floor. At 4:10 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 14, 1986

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Business Meeting

met at 9:50 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering legislation to reauthorize the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

H.R. 2482

The following Members were present:

Mr. Bedell
Mr. Brown
Mr. Staggers
Mr. Panetta
Mr. Hatcher
Mr. Penny
Mr. Volkmer
Mr. de la Garza
Mr. ex offocio
Mr.
Mr.
Mr.
M.
Mr.
Mr.

Mr. Roberts
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Combest
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Staff Present:
Phillip L. Fraas, Counsel
John Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Tim Galvin, Subcommittee Staff Director
Gary Mitchell, Minority Consultant
Glenda Temple, Clerk
Nick Ashmore, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present to respond to questions:

1. Mr. Dave Meade, Office of Legislative Counsel, U.S. House of Representatives

2. Mr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C.

   Acc. by: Mr. Ed Gray, Office of General Counsel, EPA

Wednesday, May 14, 1986
Subcommittee on Department Operations
Research, and Foreign Agriculture
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Action Taken:

-- Without objection Bedell suggestions to Hatcher amendment on reregistration fees agreed to.

-- By voice vote Hatcher amendment on reregistration fees, as reformed, agreed to.

-- Without objection Bedell suggestion to Roberts amendment on inert ingredients approved.

-- By voice vote Roberts amendment, as amended, adopted.

-- By voice vote Volkmer amendment adding to definition of man to include unborn persons agreed to.

-- By voice vote Brown study amendment approved.

-- By voice vote Brown amendment on hearing process agreed to.

-- By voice vote Morrison amendment providing that regulations be appropriate and necessary adopted.

-- Without objection Morrison amendment striking language on civil and criminal penalties withdrawn.

-- By voice vote Panetta amendment continuing IR-4 program agreed to.

-- Without objection Bedell suggestion to Evans (Iowa) amendment on the publics right to know approved.

-- By voice vote Evans (Iowa) public right to know amendment agreed to.

-- By voice vote Volkmer amendment on certification process adopted.

-- By voice vote Committee Print, as amended, substituted for the bill H.R. 2482.

-- By record vote 13 yeas-0 nays H.R. 2482, as amended, ordered reported to the full Committee in the presence of a quorum.

Wednesday, May 14, 1986
Subcommittee on Department Operations
Research, and Foreign Agriculture
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Chairman Bedell called the meeting to order for the purpose of considering legislation to reauthorize the Federal Insecticide, Fungicide, and Rodenticide Act. Mr. Bedell thanked everyone for working so hard to work out a number of compromises on the difficult issues contained in the legislation. He advised that the attached Committee Print represented the results of the negotiations. Copy of brief summary also attached.

Mr. Rawls was recognized to explain the provisions of the bill. During his explanation, Mr. Rawls presented the attached chart setting forth the reregistration process.

Without objection the Committee Print was considered by title for amendment with additional amendments to be offered at the conclusion of the reading of the titles for amendment.

Mr. Hatcher offered the attached amendment concerning reregistration fees. Discussion occurred on the amendment. Mr. Bedell stated that there were concerns with the definition of "antimicrobial". Discussion continued and Mr. Hatcher stated he would work with staff to perfect the definition.

Mr. Bedell advised that he was concerned with page 2 of the amendment which would exempt small businesses from having to pay fees under the section since it was difficult to define small businesses. Mr. Hatcher asked unanimous consent to delete page 2 of his amendment with the understanding that he would try to work out language for consideration by the full Committee. There was no objection; whereupon the Hatcher amendment, as reformed, was agreed to.

Mr. Roberts offered the attached amendment which clarified the Administrator's authority to request information on inert ingredients from the registrant of a pesticide and from the producers of the inert ingredient. Discussion occurred. Mr. Bedell asked unanimous consent to add the words "this or" in paragraph (b) making the language read "pursuant to this or other available authority," and there was no objection. Discussion continued and both Mr. Volkmer and Mr. Gunderson spoke in favor of clarifying report language. Mr. Roberts moved the adoption of the amendment with the understanding that report language could be added in the full Committee. By a voice vote the motion was approved.

Mr. Volkmer offered the attached amendment which adds to the definition of the term "unreasonable adverse effects on the environment" that the term "man" includes unborn persons. Discussion occurred and by a voice vote the amendment was agreed to.

Wednesday, May 14, 1986
Subcommittee on Department Operations
Research and Foreign Agriculture
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Mr. Brown offered the attached amendment calling for a study and report to Congress on the pesticide volume, use sites, and target insects for nonagricultural pesticides. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Brown offered the attached amendment dealing with the hearing process. Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Volkmer advised that while he did not have an amendment at this time, he was concerned with the certification process and that it would require a commercial applicator to apply sprays in an office that are used by individuals in their homes. Discussion occurred.

Mr. Brown distributed two amendments and some information dealing with data compensation (copies attached). He stated that while he did not intend to offer the amendments at this time, he wanted the Members to look at them as possible alternatives that might be considered in the full Committee. Mr. Gunderson advised that he had an amendment to data compensation as well which would provide for a 6-month study. Discussion occurred on the possible amendments.

Mr. Morrison offered the attached amendment providing that the Administrator shall issue regulations "if appropriate and necessary." Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Morrison offered the attached amendment to strike language relating to civil and criminal penalties Discussion occurred and without objection Mr. Morrison withdrew the proposal for perfecting for full Committee consideration.

Mr. Panetta offered the attached amendment to continue funding for the IR-4 program, which is a program to aid growers of small acreage crops in controlling their various pest problems. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Evans (Iowa) offered the attached amendment dealing with the public right to know. Discussion occurred and Mr. Bedell suggested adding "subject to cost negotiations subject to the Administrator" at the end of the first sentence. Without objection the Bedell suggestion was approved and by a voice vote the Evans (Iowa) amendment, as amended, was agreed to.

Wednesday, May 14, 1986
Subcommittee on Department Operations
Research, and Foreign Agriculture
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Mr. Volkmer stated that he had decided to go ahead and offer an amendment on the certification process for applicators (copy attached) which he had previously discussed. The amendment provides that one has to be certified as an applicator other than for a private applicator for on-farm use for production of agricultural commodities if restricted use pesticides are used. Discussion occurred and by a voice vote the Volkmer amendment was approved.

Mr. Brown reserved the right to offer in full Committee a possible amendment to the Morrison amendment dealing with "appropriate and necessary" should it be needed.

Mr. Roberts advised that he was also working on an amendment which he would offer in full Committee on uniform tolerances for pesticides.

By a voice vote the Committee Print, as amended, was substituted for the bill H.R. 2482. By a voice vote staff was directed to make any additional technical changes necessary to reflect the intent of the Subcommittee.

Mr. Roberts moved the passage of H.R. 2482, as amended, and by a voice vote the motion was approved. Mr. Brown requested a recorded vote and the vote follows:

YEAS

1. Mr. Brown
2. Mr. Roberts
3. Mr. Morrison
4. Mr. Gunderson
5. Mr. Evans (Iowa)
6. Mr. Bedell
7. Mr. Staggers
8. Mr. Panetta
9. Mr. Hatcher
10. Mr. Penny
11. Mr. Foley (proxy to Mr. Bedell)
12. Mr. Volkmer (proxy to Mr. Bedell)
13. Mr. Combest

NAYS

None

Thus, by a record vote of 13 yeas-0 nays H.R. 2482 was ordered reported with the recommendation that it do pass to the full Committee in the presence of a quorum (11 Members present and voting).

At 12:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

FIFRA3

HLC

[SUBCOMMITTEE PRINT]
May 12

99TH CONGRESS
2D SESSION

H. R. ____

IN THE HOUSE OF REPRESENTATIVES

Mr. ______________ introduced the following bill; which was referred to the Committee on ________________________

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure safer pesticides and to better protect the public and the environment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986''.

(b) Table of Contents.--The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I--PREREGISTRATION ACCESS TO DATA

Sec. 101. Preregistration access to data.
Sec. 102. Criminal penalties for disclosure of information.

TITLE II--CONDITIONAL REGISTRATION

Sec. 201. Conditional registration.

TITLE III--REREGISTRATION AND REVENUES

Sec. 301. Definition of outstanding data requirement.
Sec. 302. Reregistration of registered pesticides.

TITLE IV--INERT INGREDIENTS

Sec. 401. Definition of ingredient statement.
Sec. 402. Compensation for data on inert ingredients.
Sec. 403. Approval of registration for substituted inert ingredients.
Sec. 404. Priority list and data development statements for inert ingredients.
Sec. 405. Substitution of inert ingredients.
Sec. 406. Disclosure of inert ingredients.

TITLE V--PUBLIC RIGHT TO KNOW

Sec. 501. Registration statements.
Sec. 502. Registration of establishments.

TITLE VI--DATA DISCLOSURE TO STATES

Sec. 601. Data disclosure to States.

TITLE VII--CANCELLATION PROCEDURES

Sec. 701. Interim administrative review.
Sec. 702. Proceedings under section 6.
Sec. 703. Cancellation and change in classification or labels.
Sec. 704. Public hearings and scientific review.
Sec. 705. Administrative changes.

TITLE VIII--FALSE OR INVALID DATA

Sec. 801. Cancellation of registration based on false or invalid data.
Sec. 802. Records.

TITLE IX--INSPECTION OF LABORATORIES

Sec. 901. Inspection of laboratories.

TITLE X--EXPORT OF PESTICIDES

Sec. 1001. Definition of misbranded.
Sec. 1002. Definition of importing country.
Sec. 1003. Pesticides and devices intended for export.
Sec. 1004. Cancellation notices furnished to foreign governments.
Sec. 1005. Cooperation in international efforts.
Sec. 1006. Tolerances and regulations for agricultural commodities.

TITLE XI--LIABILITY

Sec. 1101. Liability.

TITLE XII--CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

Sec. 1201. Certification, training, and recordkeeping amendments.

TITLE XIII--STATE AUTHORITY

Sec. 1301. State registrations.

TITLE XIV--DEFINITIONS

Sec. 1401. Definitions.

TITLE XV--INFORMATION REQUESTED

Sec. 1501. Information requested.

TITLE XVI--STATE COOPERATION, AID, AND TRAINING

Sec. 1601. Cooperative agreements.

TITLE XVII--SCIENTIFIC ADVISORY PANEL

Sec. 1701. Term.

TITLE XVIII--STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Sec. 1801. Authority for EPA action.

TITLE XIX--UNLAWFUL ACTS

Sec. 1901. Unlawful acts.

TITLE XX--PENALTIES

Sec. 2001. Penalties.

TITLE XXI--CONGRESSIONAL REVIEW

Sec. 2101. Congressional review.

TITLE XXII--REVIEW OF REGULATIONS

Sec. 2201. Review of regulations.

TITLE XXIII--DELEGATION AND COOPERATION

Sec. 2301. Delegation and cooperation.

TITLE XXIV--INDEMNITIES

Sec. 2401. Report by EPA.

TITLE XXV--AUTHORIZATION FOR APPROPRIATIONS

Sec. 2501. Authorization for appropriations.

TITLE XXVI--RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER.

Sec. 2601. Definition of groundwater.
Sec. 2602. Protection of groundwater.

TITLE XXVII--CLARIFYING AMENDMENTS

Sec. 2701. Clarifying amendments.

TITLE XXVIII--TABLE OF CONTENTS AMENDMENTS

Sec. 2701. Table of contents amendments.

TITLE XXIX--EFFECTIVE DATE

Sec. 2801. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I--PREREGISTRATION ACCESS TO DATA

SEC. 101. PREREGISTRATION ACCESS TO DATA.

(a) IN GENERAL.--Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end thereof the following new paragraph:

``(9) PREREGISTRATION ACCESS TO DATA.--

``(A) If an application for--

``(i) a registration of a pesticide containing a new active ingredient, or

``(ii) a registration to authorize the initial food use of a pesticide active ingredient, is submitted to the Administrator, the Administrator, shall before approving such application, provide, in accordance with this paragraph, public access to health, safety, and environmental data that are submitted or cited in support of such application.

``(B) To obtain access to the data referred to in subparagraph (A), a person must send by certified mail--

``(i) not later than 30 days after the publication under paragraph (4) of a notice respecting the application referred to in subparagraph (A), and

``(ii) simultaneously to the Administrator and to the applicant for the registration of the pesticide,

a request for such access and the affirmation required by subparagraph (D).

``(C)(i) Not later than 15 days after receipt of a request for access to such data and the affirmation required by subparagraph (D), the Administrator shall grant or deny such request. The Administrator may not extend the 15-day period for acting on such request.

``(ii) If access to data is denied under clause (i), comments on the application for which such data were submitted shall be filed within 60 days from the decision of the Administrator denying access.

``(D)(i) Data referred to in subparagraph (A) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator considers necessary) containing the information prescribed by clause (ii).

``(ii) The affirmation required under clause (i) shall--

``(I) state that the person is neither employed by nor acting, directly or indirectly, on behalf of any person or entity, or affiliate thereof, engaged in the production, sale, or distribution of a pesticide,

``(II) identify any business, employer, or other person, if any, on whose behalf the person is requesting access to the data, and

``(III) affirm that the person will not intentionally or recklessly violate this paragraph.

For purposes of this clause, an affiliate is a person who directly or indirectly, through one or more intermediates, controls or is controlled by or is under common control with the person specified.

``(iii) Section 1001 of title 18, United States Code, shall apply to an affirmation made under this subparagraph.

``(E)(i) Data relating to a pesticide may be made available under subparagraph (A) to a person only for the purpose of permitting the person to comment to the Administrator on an application for registration of a pesticide. Such comments may reasonably quote data submitted to the Administrator. No person, including the Administrator, may make such comments public before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

``(ii) Except as provided in clause (iii), data obtained under subparagraph (A) may not be--

``(I) published, copied, or transferred to any other individual or entity to obtain approval to sell, manufacture, or distribute a pesticide anywhere in the world, and

``(II) used for any purpose in any court or agency of the United States or any State or political subdivision thereof before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

``(iii) Such data and comments may be disclosed consistent with section 10 after registration of the pesticide for which such data were submitted.

``(F)(i) Data relating to a pesticide may be examined at an office of the Environmental Protection Agency or an appropriate State agency that complies with this section and may not be removed from such office.

``(ii) The Administrator shall maintain a record of the persons who inspect data. A copy of such record shall be sent to the data submitter upon request.

``(G) Once access to data respecting an application is granted, the data may be examined and notes may be taken for use in developing comments on the application. Such comments on the application shall be filed within 60 days, unless extended an additional 30 days for good cause.''.

(b) NOTICE OF APPLICATION.--Section 3(c)(4) (7 U.S.C. 136a(c)(4)) is amended--

(1) in the first sentence, by striking out ``promptly'' and inserting in lieu thereof ``not later than 30 days'', and

(2) in the second sentence, by striking out ``30''

and inserting in lieu thereof ``60''.

SEC. 102. CRIMINAL PENALTIES FOR DISCLOSURE OF INFORMATION.

Paragraph (3) of section 14(b) (7 U.S.C. 1361(b)(3)) is amended to read as follows:

``(3) DISCLOSURE OF INFORMATION.--

``(A) Any person who, with intent to defraud, uses or reveals information relative to the formula of a product acquired under section 3, shall be fined not more than $25,000, or imprisoned for not more than 3 years, or both.

``(B) Any person, including any officer, contractor, or employee of the United States or a State, who--

``(i) is granted access to data under section 3(c)(9), and

``(ii) in furtherance of a commercial purpose involving the production, registration, distribution, or sale of a pesticide--

``(I) knowingly violates such section, or

``(II) knowingly allows data to be made available in violation of such section,

shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.''.

TITLE II--CONDITIONAL REGISTRATION

SEC. 201. CONDITIONAL REGISTRATION.

Section 3(c)(7) (7 U.S.C. 136a(c)(7)) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

``(B)(i) Except as provided in clauses (ii) and (iv), the Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding the fact that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that--

``(I) the applicant has submitted or cited the additional data that the Administrator may require solely for the proposed additional use,

``(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment, and

``(III) the additional use is in the public interest.

``(ii)(I) Except as provided in subclause (II), if the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), no registration of the pesticide may be amended under clause (i) during the pendency of any evaluation by the Administrator initiated by such notice.

``(II) If the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), the Administrator may amend the registration of a pesticide under clause (i) for an additional use if the additional use involves a minor food or feed use and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is not available an effective alternative pesticide that does not meet or exceed such risk criteria.

``(iii) An applicant seeking an amended registration of a pesticide under this subparagraph shall submit or cite to the Administrator or cite such data as would be required to maintain a registration of a similar pesticide under this section. Except as provided in clause (iv), if the applicant is unable to submit or cite an item of such data because it has not yet been generated, the Administrator may amend the registration of a pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted for the maintenance of a registration of a similar pesticide under this section.

``(iv) If data concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required for registration of an additional use of a pesticide that is not a minor use, and such a data requirement was in effect at the time, as determined by the Administrator, the applicant began studies to obtain such data, a conditional registration for such use shall not be granted under clause (i) unless such data have been submitted.

``(C) An amendment to an existing conditional registration, other than an amendment for an additional use, may be issued under subparagraph (B)(i) even though the data have not been submitted or cited if the registrant has--

``(i) initiated necessary tests to secure data referred to in subparagraph (B)(iii), and

``(ii) satisfied the other requirements for the amendment of a conditional registration imposed under this paragraph.

``(D)(i) Except as provided in clauses (ii) and (iii), the Administrator may conditionally register a pesticide containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data which have not been submitted because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement if--

``(I) the Administrator may reasonably expect to receive such data by the end of such period,

``(II) the Administrator may reasonably expect to receive data which will not meet or exceed the risk criteria specified in regulations issued under paragraph (8), and

``(III) such other conditions as the Administrator may prescribe are met.

``(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that--

``(I) use of the pesticide during the period referred to in clause (i) will not cause any unreasonable adverse effect on the environment, and

``(II) use of the pesticide is in the public interest.

``(iii) If data concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required for registration of the pesticide, and such a data requirement was in effect at the time, as determined by the Administrator, the applicant began studies to obtain the data, a conditional registration shall not be granted under this subparagraph unless such data have been submitted.''.

TITLE III--REREGISTRATION AND REVENUES

SEC. 301. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following new subsection:

``(ff) OUTSTANDING DATA REQUIREMENT.--

``(1) IN GENERAL.--The term `outstanding data requirement' means any study, required information, or data necessary to make a determination under section 3(c)(5) that--

``(A) has not been submitted to the Administrator; or

``(B) has been submitted to the Administrator but which the Administrator determines is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued thereunder.

``(2) FACTORS.--In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.''.

SEC. 302. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.--The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

``**SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.**

``(a) GENERAL RULE.--The Administrator shall reregister, in accordance with this section, pesticides--

``(1) which have been registered under section 3 before November 1, 1984, and

``(2) which have not before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 been reregistered under this Act.

``(b) SPECIAL AUTHORITIES OF E.P.A.--

``(1) GUIDELINES.--Not later than one year after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall by order issue guidelines to be followed by registrants in--

``(A) summarizing studies,

``(B) reformatting studies,

``(C) identifying adverse information,

``(D) identifying studies which have been submitted which may not meet the requirements of section 3 or regulations issued under such section, and

``(E) identifying other information,

in accordance with subsection (f)(1). Guidelines issued under this paragraph shall not be subject to judicial review.

``(2) MONITORING.--

``(A) The Administrator shall monitor the progress of registrants in acquiring and submitting, within the time periods prescribed by subsection (e)(4)(B), data under an agreement entered into under subsection (e)(3)(B) to replace data which are missing or inadequate.

``(B) The Administrator shall monitor the progress of registrants in acquiring and submitting, within the time period prescribed by paragraph (2) of subsection (g), the data required under paragraph (1)(B) of subsection (g).

``(3) SUSPENSIONS AND PENALTIES.--

``(A) The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if--

``(i) the Administrator determines that progress is insufficient to ensure the submission of the data required under an agreement entered into under subsection (e)(3)(B) within the time period prescribed by subsection (e)(4)(B) or the registrant has not submitted such data to the Administrator within such time period,

``(ii) the Administrator determines that necessary tests to fill an outstanding data requirement for such pesticide have not been initiated within 1 year of the issuance of a notice under paragraph (1)(B) of subsection (g),

``(iii) the Administrator determines that progress is insufficient to ensure completion of tests referred to in clause (ii) within the time period prescribed by paragraph (2) of subsection (g) or the required test data have not been submitted to the Administrator within such time period, or

``(iv) a registrant fails to comply with clause (ii) or (iii) of section 3(c)(2)(B) of such Act.

``(B) A registrant who submits a certification under subsection (f)(1) which is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14(a).

``(c) Reregistration Phases.--Reregistrations of pesticides under this section shall be carried out in the following phases:

``(1) The first phase shall include the listing under subsection (d) of the active ingredients of the pesticides which will be reregistered.

``(2) The second phase shall include the submission to the Administrator under subsection (e) of a notice by registrants respecting their intention to seek reregistration, an identification by registrants of missing and inadequate data existing for such pesticides, and an agreement by the registrant to replace such missing or inadequate data within the applicable time period.

``(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (f).

``(4) The fourth phase shall include the an independent, initial review by the Administrator under subsection (g) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary of requests for additional data.

''(5) The fifth phase shall include the review by the Administrator under subsection (h) of data submitted for reregistration and appropriate regulatory action by the Administrator.

''(d) PHASE ONE.--

''(1) PRIORITY FOR REREGISTRATION.--For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to active ingredients (other than active ingredients for which registration standards have been issued before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 that, among other things--

''(A) are in use on or in food or feed and may result in postharvest residues,

''(B) may result in residues of potential toxicological concern in potable groundwater, edible fish, or shellfish,

''(C) have been determined by the Administrator before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 to have significant outstanding data requirements, or

``(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

``(2) REREGISTRATION LISTS.--For purposes of reregistration under this section, the Administrator shall by order--

``(A) not later than 60 days after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list pesticide active ingredients for which registration standards have been issued before such date,

``(B) not later than 4 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the first 150 pesticide active ingredients, as determined under paragraph (1),

``(C) not later than 7 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the second 150 pesticide active ingredients, as determined under paragraphs (1), and

``(D) not later than 10 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the remainder of the pesticide active ingredients.

Each list shall be published in the Federal Register.

``(3) JUDICIAL REVIEW.--The content of a list by the Administrator under paragraph (2) shall not be subject to judicial review.

``(4) NOTICE TO REGISTRANTS.--Upon the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time in which the registrants are to notify the Administrator under subsection (e) if they intend to seek or not to seek reregistration of such pesticides.

``(e) PHASE TWO.--

``(1) IN GENERAL.--The registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and the information and agreement described in paragraph (3).

``(2) NOTICE OF REREGISTRATION.--

``(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall notify the

Administrator by certified mail if the registrant intends to seek or does not intend to seek reregistration of the pesticide.

``(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

``(3) MISSING OR INADEQUATE DATA.--Each registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator--

``(A) in accordance with regulations issued by the Administrator under section 3 an identification of--

``(i) data which were not submitted or cited in support of the registration of the pesticide and which are required to meet such regulations, and

``(ii) data which were submitted or cited in support of the pesticide which are inadequate to meet such regulations; and

``(B) an agreement to replace data identified under subparagraph (A) within the applicable time period prescribed by paragraph (4)(B).

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (f) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be presumed to be inadequate if the data are derived from a study conducted before January 1, 1970, unless the registrant who would be required to identify such data demonstrates to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide which is to be reregistered.

``(4) TIME PERIODS.--

``(A) A submission under paragraphs (2) and (3)(A) shall be made--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 3 months after the date of the listing of such active ingredient,

``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 3 months after the date of the listing of such active ingredient, and

``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 3 months after the date of the listing of such active ingredient.

Upon application, the Administrator may extend the time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the applicant prevent the applicant from complying with such period.

``(B) A registrant shall submit data in accordance with an agreement entered into under paragraph (3)(B) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission under paragraph (3). The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(5) CANCELLATION AND REMOVAL.--

``(A) If the registrant of a pesticide does not submit a notice under paragraph (2) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of an intent to cancel the registration of such registrant for such pesticide. Before issuing such a notice the Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. Upon expiration of such 60 days, the Administrator may by order cancel the registration or take such other action, including waiver of applicable time periods, as may be necessary to enable reregistration of such pesticide by another registrant.

``(B) If all the registrants of a pesticide notify the Administrator under paragraph (2) that the registrants do not intend to seek reregistration of a pesticide, if the Administrator cancels all the registrations of a pesticide under subparagraph (A), of if because of a combination of such notices and cancellations there are no registrants of the pesticide who intend to seek reregistration, the Administrator shall remove such pesticide from the list established under subsection (d)(2) and the Administrator shall issue a notice of an intent to cancel the outstanding registrations for such pesticide. Before issuing such a notice the

Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. The Administrator shall continue the outstanding registrations for such a pesticide if, during the 60-day comment period, a person--

``(i) offers to compensate such a registrant under section 3(c)(1)(D) for the use of data, and

``(ii) submits a notice under paragraph (2)(A) to seek reregistration.

For purposes of this section, the original data submitter shall provide such person access to the data for which information is required under subsection (f).

``(f) PHASE THREE.--

``(1) DATA INFORMATION.--Each registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) who has submitted a notice under subsection (e)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under subsection (b)(1), to the Administrator--

``(A) a summary of each study submitted in support of the registration of the pesticide and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section,

``(B) a reformat of the data--

```(i) concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity, or

``(ii) concerning the residue chemistry of the pesticide,

which was submitted to the Administrator before January 1, 1982, which the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section,

``(C) in the case of a registrant who did not submit data which is to be reformated under subparagraph (B), a reformat of acute and sub-chronic toxicity data submitted to the Administrator before January 1, 1982, which the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section

``(D) an identification of data which is required to be submitted to the Administrator under section 6(g)(4) and which indicates an adverse effect of the pesticide,

``(E) a summary of studies conducted in support of the registration which may or may not meet regulations issued by the Administrator under section
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3 but which the registrant asserts meets such regulations and a reformating of the data from such studies which is described in clause (i) or (ii) of subparagraph (B) or in subparagraph (C),

``(F) an identification of any other information available that in the registrant's view supports the registration,

``(G) a certification that the registrant possesses or has access to the raw data used in or generated by the studies summarized under subparagraphs (A) and (E), and

``(H) an agreement to fulfill all outstanding data requirements identified by the registrant.

``(2) TIME PERIODS.--

``(A) The information required by paragraph (1) shall be submitted to the Administrator--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 12 months after the date of the listing of such active ingredient,

``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 12 months after the date of the listing of such active ingredient, and ``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 12 months after the date of the listing of such active ingredient.

``(B) A registrant shall submit data in accordance with an agreement entered into under paragraph (1)(H) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission under such paragraph. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(g) PHASE FOUR.--

``(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.--

``(A) The Administrator shall review the submissions of a registrant of a pesticide under subsection (e)(3) to determine if such submissions identified all the data which are missing or inadequate for such pesticide and the submissions of the registrant under subsection (f)(1). To assist the review under this subparagraph, the Administrator may require an applicant for reregistration to submit complete copies of studies conducted under section 3 and the regulations thereunder.

``(B) The Administrator shall independently identify and publish in the Federal Register a list of each outstanding data requirement for each active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and which is contained in a pesticide to be reregistered under this section. The Administrator shall also at the same time issue a notice under section 3(c)(2)(B) for the submission of the additional data which are required to meet such requirement.

``(2) TIME PERIODS.--

``(A) The Administrator shall take the action required by paragraph (1)--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 18 months after the date of the listing of such active ingredient,

``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 24 months after the date of the listing of such active ingredient, and

``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

``(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time as determined by the Administrator but not to exceed 48 months after the issuance of such notice. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(h) PHASE FIVE.--

``(1) DATA REVIEW.--The Administrator shall conduct a thorough examination of all available data submitted or cited for such pesticide in accordance with the requirements of this section.

``(2) REREGISTRATION AND OTHER ACTIONS.--

``(A) REREGISTRATION.--After conducting the review prescribed by paragraph (1) the Administrator shall determine whether to reregister a pesticide under this subsection by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide should be reregistered, the Administrator shall reregister such pesticide within 1 year of the date of the submission of the data for such pesticide under subsection (g). For extraordinary circumstances the Administrator may extend the period for reregistration for not more than one additional year.

``(B) OTHER ACTION.--If the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

``(i) COMPENSATION OF DATA SUBMITTER.--

``(1) Section 3(c)(1)(D) shall apply with respect to the citation under this section of data which have been previously submitted to the Administrator under section 3 or this section.

``(2) If data which are submitted by a registrant under subsection (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation the fees paid by the registrant under this section shall be taken into account.

''(j) FEES.--

''(1) INITIAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.--To review submissions under subsections (e)(3)(A) and (f)(1) for a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and which is registered for a major use on food or feed, the registrant of a pesticide which contains such ingredient who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) shall pay a fee of $50,000 upon submission of information under subparagraphs (A) through (E) of subsection (f)(1) for such ingredient.

''(2) FINAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.--To review data submitted under an agreement entered into under subsection (e)(3)(B) and in response to a notice issued under paragraph (1)(B) of subsection (g) for a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and which is registered for a major use on food or feed and to conduct the examination required by subsection (h)(1), the registrant of a pesticide which contains such ingredient who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) shall pay a fee of $100,000 upon submission of data for such ingredient in response to a notice issued under paragraph (1)(B) of subsection (g). The registrant of a pesticide which contains an active ingredient listed under subparagraph (A) of subsection (d)(2) and which is registered for a major use on food or feed who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) shall pay a fee of $100,000 at such time as the Administrator shall prescribe.

``(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.--If a pesticide is registered solely for uses other than on food or feed or solely for a minor use on food or feed and contains an active ingredient which is listed under subsection (d)(2), the Administrator shall charge the registrant of such pesticide who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) a fee which may be less than the fee prescribed by paragraphs (1) and (2) but not less than one-half the fees required by such paragraphs. A registrant shall pay such fee at the time the fees prescribed by paragraphs (1) and (2) are to be paid.

``(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.--In the case of a pesticide which is registered solely for a minor use or where value or volume of use is small, the Administrator may, upon application, reduce or waive the fee prescribed by paragraph (3).

``(5) OTHER FEES.--On payment of fees for the reregistration of a pesticide in accordance with paragraphs (1), (2), (3), or (4) the Administrator may not levy any other fees for the reregistration of such pesticide.

``(6) APPORTIONMENT.--If there are two or more registrants of a pesticide registered under this Act which contains active ingredients listed under subsection (d)(2) who are required to pay the fees prescribed by paragraphs (1) and (2) or paragraph (3) or (4), the fees for such active ingredients shall be apportioned among such registrants by the registrants themselves. If the registrants fail to agree to a system of apportionment, the first applicant for reregistration of a pesticide shall pay the prescribed fee.

``(k) REVOLVING FUND.--

``(1) There shall be established in the Treasury of the United States a revolving fund.

``(2) All fees collected by the Administrator under subsection (j) shall be deposited into the revolving fund and shall, to the extent provided in appropriation Acts, be available to the Administrator, without fiscal year limitation, to carry out this section.

``(3) Money in the revolving fund not currently needed to carry out this section shall be--

``(A) maintained on hand or on deposit;

``(B) invested in obligations of the United States or guaranteed thereby; or

``(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

``(4) The Administrator shall--

``(A) provide an annual accounting of the fees collected and disbursed from the revolving fund; and

``(B) take all steps necessary to insure that expenditures of such funds are solely utilized to carry out this section.

``(l) JUDICIAL REVIEW.--Any failure of the Administrator to take any action required by this section shall be subject to judicial review under section 16.''.

(b) TECHNICAL AMENDMENT.--Subsection (g) of section 3 (7 U.S.C. 136a(g)) is repealed.

TITLE IV--INERT INGREDIENTS.

SEC. 401. DEFINITION OF INGREDIENT STATEMENT.

(a) AMENDMENT.--Subsection (n) of section 2 (7 U.S.C. 136(n)) is amended to read as follows:

``(n) INGREDIENT STATEMENT.--

``(1) IN GENERAL.--The term `ingredient statement' means a statement that contains--

``(A) the name and percentage of each active ingredient in a pesticide and the total percentage of all inert ingredients,

``(B) the name of each inert ingredient in a pesticide--

``(i) for which the Administrator has taken action under section 3(c)(2) or section 4 of the Toxic Substances Control Act under a data development statement, or

``(ii) which the Administrator determines must appear in the ingredient statement because of the hazard which the Administrator has determined may be posed by the presence of such ingredient, and

``(C) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic.

``(2) COMMON NAME.--The Administrator may require that an ingredient be identified by its common name.''.

(b) EFFECTIVE DATE.--The holder of a registration for a pesticide which is in effect on the date of the enactment of this Act shall apply to the Administrator to change the label of such pesticide to conform to section 2(n) of the Federal Insecticide, Fungicide and Rodenticide, Act, as amended by subsection (a) of this section , not later than 120 days after the Administrator (1) has taken action under section 3(c)(2) of such Act or section 4 of the Toxic Substances Control Act under a data development statement with respect to an inert ingredient in such pesticide, or (2) made a determination that an inert ingredient in such pesticide presents a hazard requiring the listing of the ingredient. If a registrant has an application approved under the Federal Insecticide, Fungicide, and Rodenticide Act to amend a registration for a pesticide to substitute an inert ingredient, the registrant shall apply to the Adminsitrator under such Act to change the label of the pesticide to conform to such section 2(n) of such Act not later than 120 days after the approval of the application. Not later than 30 days after receipt of such application, the Administrator shall act on such application.

SEC. 402. COMPENSATION FOR DATA ON INERT INGREDIENTS.

Subparagraph (D) of section 3(c)(2) (7 U.S.C. 136a(c)(2)(D)) is amended to read as follows:

``(D) EXEMPTION.--

``(i) No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into a product shall be required to--

``(I) submit or cite data pertaining to the safety of such purchased product; or

``(II) offer to pay reasonable compensation otherwise required by paragraph (1)(D) for the use of any such data.

``(ii) No applicant for registration of a pesticide who proposes to purchase an inert ingredient from another producer in order to formulate the pesticide shall be required to offer to pay reasonable compensation otherwise required by paragraph (1)(D) for a study required to be cited or submitted if the study was conducted pursuant to a data development statement under subsection (g)(6).''.

SEC. 403. APPROVAL OF REGISTRATION FOR SUBSTITUTED INERT INGREDIENTS.

(a) APPROVAL OF REGISTRATION.--The first sentence of section 3(c)(5) (7 U.S.C. 136a(c)(5)) is amended--

(1) by striking out ``and'' at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ``; and''; and

(3) by adding at the end thereof the following new subparagraph:

``(E) in the case of an application to amend a registration to substitute an inert ingredient for an inert ingredient listed under subsection (g)(1), that the requirements of subsection (i) are satisfied.''.

(b) STUDY REQUIREMENT.--Section 3(c)(5) is amended by adding at the end thereof the following new sentence: ``On or after the date specified for submission of a study required under the data development statement under subsection (g)(6), an application to register or to amend the registration of a pesticide containing an inert ingredient listed under subsection (g)(1) shall be considered not to satisfy the requirements of this paragraph, unless the application is supported by the study required under such statement.''.

SEC. 404. PRIORITY LIST AND DATA DEVELOPMENT STATEMENTS FOR INERT INGREDIENTS.

Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

``(g) PRIORITY LIST AND DATA DEVELOPMENT STATEMENTS FOR INERT INGREDIENTS.--

``(1) ESTABLISHMENT OF LIST.--Subject to paragraph

(5), the Administrator shall establish a priority list of deliberately added inert ingredients consisting of--

``(A) inert ingredients that appear to cause a pesticide to meet or exceed a criterion for initiating an interim administrative review under subsection (c)(8);

``(B) inert ingredients for which additional data are reasonably necessary to evaluate whether the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment and which are similar in molecular structure to a chemical that is oncogenic, mutagenic, teratogenic, or causes another significant adverse effect, and have significant use in pesticides, or to which there is significant exposure from pesticides; and

``(C) inert ingredients for which additional data are reasonably necessary to evaluate whether the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment and to which there is significant and widespread exposure, or that are in widespread use, in pesticides.

``(2) PUBLICATION OF LIST.--Not later than 90 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually. Any publication under this paragraph of the initial list under paragraph (1) or any revision of such list shall include a statement of the reasons for the inclusion of inert ingredients on such lists.

``(3) JUDICIAL REVIEW.--The priority list under paragraph (1) and any revision to the priority list shall not be subject to judicial review, except that the omission of an inert ingredient from such list shall be subject to judicial review under section 16 after the first publication of a data development statement.

``(4) REMOVAL OF INGREDIENTS.--

``(A) INGREDIENTS INVOLVING INTERIM ADMINISTRATIVE REVIEWS.--An inert ingredient listed on the priority list pursuant to paragraph (1)(A) shall be removed from the priority list on--

``(i) a final--

``(I) decision by the Administrator not to initiate an interim administrative review under subsection (c)(8) with respect to pesticides containing the inert ingredient, or

``(II) action by the Administrator concluding an interim administrative review and completion of all actions under section 6 resulting from the interim administrative review and any judicial review of the section 6 actions; or

``(ii) a final decision by the Administrator not to require additional data to be generated for such ingredient or the receipt and evaluation by the Administrator of all data required to be submitted under paragraph (6) and the completion of all actions under section 6 resulting from the evaluation of such data and any judicial review of the section 6 actions.

``(B) INGREDIENTS INVOLVING ADDITIONAL DATA.--An inert ingredient listed on the priority list pursuant to paragraph (1)(B) shall be removed from the priority list on--

``(i) a final decision by the Administrator not to require additional data to be generated for such ingredient and any judicial review of such decision; or

``(ii) the receipt and evaluation by the Administrator of all data required to be submitted under paragraph (6) and the completion of all actions under section 6 resulting the evaluation of such data and any judicial review of the section 6 actions.

``(5) NUMBER OF INGREDIENTS.--The priority list under paragraph (1) shall consist of not less than 50 inert ingredients unless the Administrator determines that there is not a sufficient number of inert ingredients meeting the requirements for listing under paragraph (1) to reach such minimum number. Such list may not exceed 75 inert ingredients. As inert ingredients are removed from the priority list under paragraph (4) the Administrator shall, in accordance with paragraph (1), add inert ingredients to meet the requirements of this paragraph.

``(6) DATA DEVELOPMENT STATEMENTS.--

``(A) A data development statement is a statement of the data for an inert ingredient listed under paragraph (1) which will be required to be submitted to the Administrator by an order under subsection (c)(2)(B) or a rule under section 4 of the Toxic Substances Control Act. Such statement shall be published in the Federal Register together with a statement of the reasons for requiring the data.

``(B)(i) Subject to clause (ii), an order or rule issued under a proposed data development statement shall require the submission of data within a reasonable time, not to exceed 4 years after the issuance of the data development statement.

``(ii) The Administrator may extend the period prescribed by clause (i) by not more than 2 years if extraordinary circumstances beyond the control of the registrant subject to the data development statement involved prevent the submission of necessary data.

``(C) In preparing a proposed data development statement, the Administrator shall consider, as appropriate--

``(i) the minor use factors referred to in subsection (c)(2)(A),

``(ii) the guidelines published pursuant to such subsection,

``(iii) the use of a tiered testing program, under which the need for long-term studies would be evaluated after receipt of short-term studies,

``(iv) the use of section 4 of the Toxic Substances Control Act for the development of data for inert ingredients which have significant non-pesticide uses, and

``(v) data generated or scheduled for generation.

``(D)(i) The Administrator shall allow 60 days for registrants and interested members of the public to comment on a proposed data development statement.

``(ii) Not later than 30 days after the close of the comment period under clause (i), the Administrator shall publish a data development statement or a decision not to issue a data development statement.

``(E) A data development statement or a decision not to issue a data development statement for an inert ingredient, shall be subject to judicial review under section 16.

``(F) On receipt of additional data under an order or rule under a data development statement for an inert ingredient, the Administrator shall, within 1 year, evaluate the data and take such steps as are appropriate to prevent unreasonable adverse effects on the environment of pesticides containing such inert ingredient. Under exceptional circumstances, the Administrator may extend the limit prescribed by the preceding sentence by not more than 1 year.

``(G)(i) For purposes of subsection (c)(1)(D)--

``(I) any study that, pursuant to a data development statement, was generated other than with public funds using another statutory authority of the Administrator, shall be treated as having been submitted in support of a registration; and

``(II) the person who submitted the study shall be treated as an original data submitter.

``(ii) For purposes of subsection (c)(1)(D)(iii), the compensation period for a study generated using the Toxic Substances Control Act shall expire at the expiration of the reimbursement period provided for in section 4(c)(3)(B) of such Act.

``(7) CONSTRUCTION.--This subsection is not to be construed as affecting the authority of the Administrator--

``(A) to regulate under this Act impurities, contaminants, degradants, and other ingredients of pesticides which have not been deliberately added to the pesticides, or

``(B) to require the submission of revised formula statements under subsection (c)(2)(B).''.

SEC. 405. SUBSTITUTION OF INERT INGREDIENTS.

Section 3 (7 U.S.C. 136a) (as amended by section 404 of this Act) is amended by adding at the end thereof the following new subsection:

``(h) SUBSTITUTION OF INERT INGREDIENTS.--The Administrator may approve an application to amend the registration of a pesticide to substitute an inert ingredient for an inert ingredient listed under subsection (g)(1) if the Administrator finds, on the basis of similarity in molecular structure to a chemical known to cause significant adverse effects, existing data, or such short-term tests as the

Administrator determines are necessary, that the substitute inert ingredient does not pose unreasonable adverse effects on the environment.''.

SEC. 406. DISCLOSURE OF INERT INGREDIENTS.

Section 10(d) (7 U.S.C. 136h(d))) is amended in the first sentence of paragraph (3) by striking out ``If'' and inserting in lieu thereof ``Except with respect to disclosure of information on inert ingredients in inert ingredient statements in accordance with section 2(n), if''.

TITLE V--PUBLIC RIGHT TO KNOW

SEC. 501. REGISTRATION STATEMENTS.

Section 3(c)(1) (7 U.S.C. 136a(a)(1)) is amended--

(1) by striking out ``and'' at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

``(G) proposed fact sheets that contain--

``(i) the name of the pesticide active ingredients and inert ingredients for which a data development statement has been issued under subsection (g)(6); and

``(ii) a summary of relevant health, safety, and environmental data; and

``(H) a list of locations where the pesticide of the registrant will be produced in the United States. Not later than 120 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, each registrant of a pesticide that is registered on the effective date of such Act shall submit the fact sheets required under subparagraph (G) to the Administrator. A fact sheet required under subparagraph (G) for a registered pesticide shall be maintained and kept current by a registrant, and made available to the public, on request, by the registrant and the Administrator. The Administrator may require amendments to such fact sheets in order to provide accurate and clear information to the public. Not later than 120 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, each registrant of a pesticide that is registered on or before such effective date shall submit a list of locations where the registrant produces the pesticide in the United States. Such list shall be maintained and kept current by a registrant, and made available to the public, on request, by the Administrator and the registrant.''.

SEC. 502. REGISTRATION OF ESTABLISHMENTS.

(a) CONFIDENTIAL RECORDS AND INFORMATION.--Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting ``and production locations'' after ``names''.

(b) FACT SHEETS.--Section 7 is amended by adding at the end thereof the following new subsection:

``(e) FACT SHEETS.--Any producer operating an establishment registered under this section shall obtain and make available to the public a fact sheet required under section 3(c)(1) for each active ingredient used in the establishment and inert ingredient used in the establishment for which a data development statement has been issued under subsection (g)(6).''.

TITLE VI--DATA DISCLOSURE TO STATES

SEC. 601. DATA DISCLOSURE TO STATES.

(a) STATES.--Section 10 (7 U.S.C. 136h) is amended by adding at the end thereof the following new subsection:

``(h) DATA DISCLOSURE TO STATES.--

``(1) IN GENERAL.--The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator and the Administrator determines that the owner of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section.

``(2) ACTION FOR JUST COMPENSATION.--For the purpose of any action that may lie against the United States for just compensation under section 1491 of title 28, United States Code--

``(A) the disclosure or use of data or information provided by the Administrator to a State in a manner inconsistent with this section or section 3 shall be considered a taking of property; and

``(B) the act of a State with respect to such data or information shall be considered an act of the United States.''.

(b) DATA SYSTEM.--Section 31 (7 U.S.C. 136y) is redesignated as section 33 and the following new section is inserted after section 30:

``SEC. 31. COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

``(a) DATA SYSTEMS.--The Administrator shall establish, administrate, and be responsible for the continuing activities of an agency committee which shall design, establish, and coordinate an efficient system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies or States and the use of the data submitted to the Administrator under this Act. The Administrator shall complete, within 36 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the design and implementation of the system and procedures required by this subsection. The agency committee so established shall solicit advice from data users outside the Federal Government through means of an advisory committee which shall consist of representatives from private groups, State governments and organizations, industry, and other representatives as may be appropriate.

``(b) DATA RETRIEVAL.--The Administrator shall, in consultation and cooperation with the Secretary of Agriculture and other heads of appropriate Federal and State departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of pesticidal, toxicological, and other scientific data which could be useful to the Administrator in carrying out this Act. Systematized retrieval shall be developed for use by all Federal and State departments and agencies with responsibilities in the area of regulation or study of pesticides and their effect on man and the environment.

``(c) INDEX.--In designing and implementing the systems required by subsections (a) and (b), the Administrator shall be responsible for indexing information previously submitted and information submitted after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 by pesticide name, Chemical Abstracts Service registry number, plant sites by State, and submitter, so that information can be retrieved in a timely and useful manner.

``(d) REPORT.--The Administrator shall, within 24 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, submit a report to the Congress on the progress in designing and implementing the system for information management required by this section. The report shall address the handling of information submitted before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 as well as the procedures established to assure that information collected after such date will adhere to the provisions of this section.

``(e) CONFIDENTIALITY.--Dissemination of information and data collected under this section to any State shall be subject to section 10.

``(f) AUTHORIZATION.--There are authorized to be appropriated for fiscal years 1987, 1988, 1989, and 1990 to carry out this section such sums as may be necessary but not more than $500,000 for any fiscal year.''.

TITLE VII--CANCELLATION PROCEDURES

SEC. 701. INTERIM ADMINISTRATIVE REVIEW.

(a) SECTION 3(c)(8).--Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

``(8) INTERIM ADMINISTRATIVE REVIEW PROCEEDINGS.--

``(A) IN GENERAL.--An interim administrative review to determine whether the use of a pesticide may pose unreasonable adverse effects to humans or the environment shall be conducted in accordance with this paragraph.

``(B) CRITERIA FOR INITIATING AN INTERIM ADMINISTRATIVE REVIEW.--

``(i) Criteria for initiating an interim administrative review of a pesticide shall be set forth in regulations published by the Administrator.

``(ii) Such criteria shall be established on the basis of levels of risk and may include consideration of currently available exposure data.

``(iii) Absence of exposure data shall not delay or preclude initiation of an interim administrative review. The Administrator may decline to initiate an interim administrative review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

``(C) REVIEW REQUIREMENT.--The Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of such pesticide required under this Act unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

``(D) PRE-REVIEW NOTICE PROCEDURES.--

``(i) On receipt of information respecting a pesticide demonstrating that the criteria for initiating an interim administrative review established under subparagraph (B) have been met, the Administrator shall immediately notify all registrants of such pesticide and provide the registrants with appropriate information and an explanation of the manner in which the criteria have been met.

``(ii) Not later than 30 days after receipt of such notice, a registrant may respond to such notice.

``(iii) Not later than 30 days after the Administrator receives a response from a registrant, the Administrator shall determine whether an interim administrative review of the pesticide shall be initiated.

``(E) NOTICE.--If the Administrator intends to initiate an interim administrative review of a pesticide which is registered for agricultural uses, the Administrator shall notify the Secretary of Agriculture of the intention to initiate such review and the reasons therefor.

``(F) REVIEW PROCEDURE.--

``(i) Any interim administrative review proceeding shall be initiated and conducted in accordance with regulations published by the Administrator. The regulations shall provide for publication of a notice of initiation of an interim administrative review, opportunity for public comment thereon, publication of a notice of preliminary determination, opportunity for public comment thereon, and publication of a notice of final determination, except that the Administrator may combine or forego any part of an interim administrative review if notice and opportunity for comment is provided for each part included in such a review.

``(ii) Any proposed determination of the Administrator shall be submitted to the Scientific Advisory Panel established under section 25(d) at the next scheduled meeting of the panel for comment solely on relevant scientific issues. The public may submit comments to the Scientific Advisory Panel concerning such position. The Administrator shall review and consider the report of the Scientific Advisory Panel containing its comments on the determination.

``(iii) The notice of the initiation of an interim administrative review or the notice of a determination shall state the basis for the review or determination and include a request for any additional data needed and a bibliography of all scientific data and studies concerning the toxicity, exposure, and benefits of the pesticide which is the subject of the review. Information in the bibliography shall be made available to the public. If the Administrator receives additional data, the Administrator shall, within 30 days of receiving the additional data, revise the bibliography to reflect such data and make the revised bibliography available to the public.

``(iv) Not later than 90 days after the publication of a notice of the initiation of an interim administrative review or a notice of a determination, comments may be submitted on such review or determination. Any person who submits comments shall disclose to the Administrator all scientific data and studies and related analysis in such person's possession concerning the toxicity, exposure, and benefits of the pesticide which is the subject of the review or determination which were not included in the bibliography included in such notice. If such person receives additional scientific data not included in such bibliography, such person shall disclose such data to the Administrator within 30 days of receiving the data.

``(v) Not later than 18 months after the initiation of a review, the Administrator shall make a decision whether or not to retain, restrict, or cancel the uses of the pesticide which was the subject of the review.

``(vi) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which--

``(I) additional data critical to a fair and accurate determination of risks posed by the pesticide subject to review are required;

``(II) the extension is for a period

limited to the time required to obtain such data on an expedited basis and in no event to exceed 1 year; and

``(III) the Administrator acted to obtain the additional data at the time the interim administrative review was initiated unless the Administrator could not have reasonably known of the need for such data at such time.

``(G) JUDICIAL REVIEW.--Any person may seek judicial review under section 16(a) of the failure of the Administrator to make a decision within the time period prescribed under subparagraph (C).''.

(b) SCIENTIFIC ADVISORY PANEL.--The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by striking out ``The'' and inserting in lieu thereof ``Except when a referral is made pursuant to section 3(c)(8)(D) to the Scientific Advisory Panel established by this subsection, the''.

(c) APPLICATION OF AMENDMENTS.--The amendments made by this section shall apply to interim administrative reviews under section 3(c)(8) of the Federal Insecticide, Fungicide, and Rodenticide Act initiated after January 1, 1987.

SEC. 702. PROCEEDINGS UNDER SECTION 6.

Section 6 (7 U.S.C 136d) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

``(f) HEARING PROCEDURES AFTER INTERIM ADMINISTRATIVE REVIEW.--The following special rules shall govern any hearing under subsection (d) of this section that resulted from a notice of intent to cancel or change the classification of a pesticide that was based on the Administrator's final decision in an interim administrative review proceeding under section 3(c)(8):

``(1) REQUEST FOR HEARING.--Any person who is adversely affected by a decision of the Administrator following an interim administrative review may request a hearing within 30 days of such decision. A person may request a hearing, or intervene in a hearing, only if that person submitted comments during the interim administrative review proceeding in accordance with section 3(c)(8)(F).

``(2) PROCEDURES.--

``(A) At the request of a party, a hearing examiner may receive into evidence portions of the interim administrative review record that the party demonstrates are relevant and material to the disputed issues, and other evidence which is relevant, material, not unduly repetitious, sponsored by a competent witness or witnesses available to be cross-examined on all matters relating to such evidence, and which consists of direct testimony of witnesses concerning information that was filed in the interim administrative review proceeding, cross-examination of such witnesses, and exhibits used in such cross examination.

Direct testimony of witnesses concerning information that was not, but could have been, obtained and submitted in the interim administrative review proceeding by the exercise of due diligence by the offering party shall not be admissible.

``(B) The right of other parties to confront and cross-examine such evidence shall be preserved with respect to material issues of adjudicative fact, so long as such cross examination is not unduly repetitious.

``(C)(i) Not later than 120 days after the hearing examiner is appointed, prehearing matters shall be completed and the hearing shall commence.

``(ii) The hearing examiner may establish a schedule for prehearing matters, including discovery and motions, and shall ensure that the hearing schedule is met. The hearing examiner shall issue such orders as are appropriate for the purpose of simplifying and clarifying issues, specifying the order of presentation of witnesses, and allocating the time for cross-examination, briefing, and decision.

``(iii) Discovery shall be permitted after the expiration of 120 days after the appointment of the hearing examiner upon a determination by the hearing examiner that (I) such discovery shall not in any way unreasonably delay the proceeding, (II) the information to be obtained is not otherwise obtainable, and (III) such information has significant probative value and is necessary to obtain relevant evidence needed to resolve a material issue in dispute.

``(D) Any challenge to--

``(i) the authority to issue, or

``(ii) the procedural correctness of the issuance of,

the notice of intent to cancel or change classification or to any request for a hearing or motion to intervene must be filed with the Administrator before the commencement of the evidentiary phase of the hearing.

``(E) Not later than 30 days before the hearing commences, the parties shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended upon motion by a party.

``(F) If new studies become available that were not available during the interim administrative review, the hearing examiner may, on request of any party and when in the judgment of the hearing examiner it is necessary, submit such studies to the Scientific Advisory Panel established under section 25(d) for supplemental comment on an expedited basis under such time limits as may be established by the hearing examiner.

``(G) The hearing examiner shall schedule the presentation and examination of witnesses so that the presentation of evidence is completed within 60 days of the commencement of the hearing, except that the schedule shall not prejudice the right of a party to present evidence. The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case as to that issue.

``(H) A hearing conducted in accordance with this subsection shall be completed and the Administrator shall make a final decision within 240 days of the issuance of the notice that gave rise to the hearing.

``(I) The time limits imposed by this paragraph may not be extended, except in exceptional circumstances in which such extension is essential for a fair and accurate determination of pivotal facts central to the proceeding. In no event may such time limits be extended more than 180 days.''.

SEC. 703. CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.

Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

``(b) CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.--

``(1) NOTICE OF CANCELLATION OR CHANGE IN CLASSIFICATION.--

``(A) If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of the intent of the Administrator--

``(i) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the action of the Administrator; or

``(ii) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

``(B) A notice issued under subparagraph (A) shall be sent to each registrant of the pesticide with respect to which the notice is issued and shall be made public.

``(C) In determining whether to issue a notice under subparagraph (A), the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

``(D)(i) Not later than 60 days before sending a notice to a registrant or making public such notice under subparagraph (B), whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of the proposed notice under subparagraph (A) and an analysis of the impact of the proposed action on the agricultural economy. The Secretary of Agriculture shall provide comments on such notice and analysis to the Administrator within 30 days of receiving the copy of such notice.

``(ii)(I) If the Secretary of Agriculture provides such comments in writing within 30 days of receiving the copy of such notice, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the comments of the Secretary.

``(II) If the Secretary of Agriculture does not provide such comments in writing within 30 days of receiving the copy of such notice, the Administrator may notify the registrant and make public the notice at any time after such 30-day period.

``(iii) The time requirements imposed by this subparagraph may be waived or modified to the extent agreed upon by the Administrator and the Secretary of Agriculture.

``(E) If the Administrator finds that suspenstion of a pesticide registration is necessary to prevent an imminent hazard to human health, the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture prescribed by subparagraph (D) and of submission to the Scientific Advisory Panel under section 25(d) and proceed in accordance with subsection (c).

``(2) HEARING.--

``(A) The action proposed in a notice issued under paragraph (1)(A) shall become final and effective at the end of 30 days from receipt by the registrant or publication of a notice issued under paragraph (1)(B), whichever occurs later, unless within that time--

``(i) the registrant makes the necessary corrections, if possible; or

``(ii) a request for a hearing is made by a person adversely affected by the notice.

``(B) Whenever a request for a hearing is made, the request shall--

``(i) identify with particularity the findings and conclusions of the decision of the Administrator that are disputed; and

``(ii) include a complete statement of the reasons and factual basis that support the request for a hearing.

``(C) Another party to the proceeding may also identify findings and conclusions in dispute.

``(D) If a hearing is held pursuant to such a request or the determination of the Administrator under paragraph (1)(A)(ii), a decision pertaining to registration or classification issued after completion of such hearing shall be final.

``(3) FACTORS.--In taking any action under paragraph (1), the Administrator shall--

``(A) consider restricting a use or uses of a pesticide as an alternative to cancellation and fully explain the reasons for such restrictions; and

``(B) consider the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and publish in the Federal Register an analysis of such impact.''.

``(4) LABEL CHANGES.--

``(A) If the Administrator determines that a change in the label of a registered pesticide is necessary to prevent use of the pesticide from causing unreasonable adverse effects on the environment and would not delete from the label authority to use the pesticide on a particular crop or site, render the product unmarketable, or have an adverse impact on the production or price of agricultural commodities the Administrator may notify the registrant of such pesticide of the change proposed by the Administrator and provide that the registrant may submit comments to the Administrator on such proposed change in the 30-day period beginning on the date of the receipt of such notice. If a registrant who is notified by the Administrator of a proposed label change does not submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a notice stating that if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be cancelled by operation of law. The registration of a registrant who does not respond to a second notice shall be cancelled by operation of law.

``(B) If a registrant submits an objection to the Administrator in response to a notice under subparagraph (A) respecting a proposed label change, the Adminstrator may, by regulation issued in accordance with section 553 of title 5, United States Code, determine--

``(i) that a use of a pesticide product (or category of products) causes or will cause unreasonable adverse effects on the environment; and

``(ii) subject to the restrictions on the

Administrator's authority imposed in subparagraph (A), the label under which the pesticide product (or category of products) may be distributed, sold, or used without causing unreasonable adverse effects on the environment.

``(C) Any regulation issued under subparagraph (3) (and any refusal of a petition to modify or rescind such a regulation) shall be reviewable only as provided by section 16(e).

``(D) After the promulgation of a regulation under subparagraph (B), a registrant may request a hearing under subsection (d) on such regulation. A user of a pesticide subject to such regulation may also request such a hearing. The scope of the hearing shall be limited to--

``(i) whether the pesticide complies with the regulation;

``(ii) whether the regulation by its terms is applicable to such pesticide; and

``(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.''.

SEC. 704. PUBLIC HEARINGS AND SCIENTIFIC REVIEW.

Section 6(d) (7 U.S.C. 136d(d)) is amended--

(1) by striking out the fifth through ninth sentences; and

(2) in the tenth sentence--

(A) by striking out ``(including the report of the Academy)'',

(B) by striking out ``90 days thereafter'' and inserting in lieu thereof ``18 months after issuance of the notice that gave rise to the hearing'', and

(C) by inserting before the last sentence the following: ``The time period prescribed by the preceding sentence may be extended by the Adminstrator under extraordinary circumstances for not more than one year.''.

SEC. 705. ADMINISTRATIVE CHANGES.

(a) AMENDMENT TO SECTION 6.--Subsection (g) of section 6 (7 U.S.C. 136d) (as so redesignated by section 702) is redesignated as subsection (h) and the following new subsection is inserted after subsection (f):

``(g) GENERAL PROVISIONS.--

``(1) VOLUNTARY CANCELLATION.--A registrant may at any time request that any of its pesticide registrations be cancelled or be amended to delete one or more uses. Before acting upon such request, the Administrator shall publish in the Federal Register a notice of the receipt of such a request. Thereafter the Administrator may approve such a request.

``(2) PUBLICATION OF NOTICE.--A notice of denial, notice of intent to cancel, notice of suspension, or notice of intent to suspend issued under this Act shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

``(3) EXISTING STOCKS.--The Administrator may permit the continued use, the continued distribution or sale, or both, of existing stocks of a pesticide whose registration is cancelled under any provision of this Act to such extent, under such conditions, during such periods, and for such uses as he may specify if he determines that such distribution, sale, or use is not inconsistent with the purposes of this Act and will not cause unreasonable adverse effects on the environment.

``(4) ADDITIONAL INFORMATION.--If at any time after the registration of a pesticide the registrant has additional information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator. For purposes of this paragraph, the term `information' includes factual information and expert opinion regarding risks and benefits.''.

(b) CONFORMING AMENDMENTS.--

(1) SECTION 3(c)(6).--Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended by striking out the period at the end and inserting in lieu thereof the following: ``except as otherwise provided in this paragraph. A request for a hearing under section 6 shall be made within 30 days of the receipt of such notification. The Administrator may issue regulations governing the right to a hearing under section 6 with regard to the denial of any application for the registration of a product containing an ingredient which was cancelled under section 6. Under such regulations, due weight shall be given to the desirability of finality of prior proceedings and determinations and to the extent to which the applicant had a prior opportunity to participate in earlier proceedings. Section 6(g)(2) applies with respect to the

publication of a notice of a denial of a registration.''.

(2) SECTION 6(a)(2).--Section 6(a) (7 U.S.C. 136d(a)) is amended--

(A) by striking out paragraph (2),

(B) by striking out ``(1) PROCEDURE.--'' and inserting the matter in paragraph (1) after the subsection heading so that it is flush with the full left-hand margin of the section.

TITLE VIII--FALSE OR INVALID DATA

SEC. 801. CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.

Subsection (h) of section 6 (7 U.S.C. 136d) (as redesignated by section 704 of this Act) is redesignated as subsection (i) and the following new subsection is inserted after subsection (g):

``(h) CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.--

``(1) NOTICE.--The Administrator shall immediately issue a notice of intent to suspend or to cancel the registration of a pesticide if--

``(A) before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator has previously determined in the Industrial Biotest validation process conducted by the Administrator that data submitted by a registrant to the Administrator in support of such registration were invalid;

``(B) the data referred to in subparagraph (A)--

``(i) have not been replaced on the effective date of such Act; or

``(ii) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

``(C) such data are material to the registration.

``(2) INVALID DATA.--If, after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator determines that invalid data have been submitted by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may--

``(A) require the registrant to submit valid replacement studies or data on an expedited schedule and to submit interim progress reports; or

``(B) issue a notice of intent to cancel such registration, if the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data and the need to use the data to determine whether the pesticide may cause unreasonable adverse effects on the environment.

``(3) FALSE DATA.--If a registrant willfully submits material data known to be false in support of the registration of a pesticide, the Administrator shall immediately issue a notice of intent to suspend or cancel such registration.

``(4) HEARING.--

``(A) Any suspension or cancellation under this subsection shall become final and effective at the end of the 30-day period beginning on receipt by the registrant of a notice issued under this section unless during such period a request for a hearing is made by a person adversely affected.

``(B) A hearing under this paragraph shall be conducted in accordance with subsection (c) or (d), as appropriate.

``(C) In the case of a hearing held with respect to action proposed to be taken under paragraph (1), the only matters for resolution shall be whether--.

``(i) in response to a notice of the Administrator issued under section 3(c)(2)(B) or other formal notice, data previously determined by the Administrator to be invalid--

``(I) have not been replaced on the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986; or

``(II) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

``(ii) the data are material to the registration.

``(D) In the case of a hearing held with respect to action proposed to be taken under paragraph (2), the only matters for resolution shall be whether data are invalid, material, and necessary to adequately determine whether a pesticide may cause unreasonable adverse effects on the environment.

``(E) In the case of a hearing held with respect to action proposed to be taken under paragraph (3), the only matters for resolution shall be whether a registrant willfully submitted material data known to be false.

``(F) A decision after completion of a hearing conducted under this paragraph shall be final.

``(G) Notwithstanding any other provision of this Act, a hearing shall be held, and a determination made, under this subsection within 75 days after the receipt of a request for such hearing.''.

SEC. 802. RECORDS.

(a) SECTION 8.--Section 8 (7 U.S.C. 136f) is amended to read as follows:

``**SEC. 8. RECORDS.**

``(a) AUTHORITY TO REQUIRE RECORDS.--The Administrator may by regulation require any producer, exporter, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or commercial applicator, or any person who distributes or sells any pesticide--

``(1) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

``(2) to furnish to the Administrator reports stating the location where the records are maintained; and

``(3) to furnish a copy of any such record to the Administrator upon written request.

The Administrator may not require any person who distributes or sells at retail a pesticide which is not subject to a restricted use classification under section 3 to prepare, maintain, or furnish any record under this subsection with respect to such pesticide.

``(b) LIMITATIONS.--The Administrator may not, under the authority of subsection (a), require any person to maintain records of--

``(1) financial data, sales data, or pricing data;

``(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

``(3) research or test data (other than data relating to registered pesticides, data relating to any pesticides for which an application for registration or for an experimental use permit has been filed, or data relating to testing at a pesticide testing facility).''.

(b) DEFINITION.--Section 2 (7 U.S.C. 136) (as amended by section 302) is amended by adding at the end the following:

``(gg) PESTICIDE TESTING FACILITY.--The term `pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) on its own behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing it). The term does not include any person solely on account of such person's participation as a cooperator in field testing of a pesticide in compliance with an experimental use permit under section

5.''.

TITLE IX--INSPECTION OF LABORATORIES

SEC. 901. INSPECTION OF LABORATORIES.

(a) SECTION 9(a).--Section 9(a) (7 U.S.C. 136g(a)) is amended to read as follows:

``(a) AUTHORITY TO ENTER, INSPECT, AND COPY.--Officers or employees of the United States or of any State, duly designated by the Administrator, are authorized at reasonable times, as provided by this section--

``(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, in order to inspect and obtain samples of any pesticide, active ingredient, or device being distributed or sold at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

``(2) to enter any place where there are located any records required by or under this Act or any place reported pursuant to section 8(a) as a location where such records are maintained, in order to inspect and obtain copies of such records;

``(3) to enter any pesticide testing facility, in order to inspect the facility and the testing being conducted at the facility and to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

``(4) to enter any place where such officer or employee has probable cause to believe that the Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, in order to inspect such place to obtain evidence of such violation.''.

(b) SECTION 9(b).--Section 9(b) (7 U.S.C. 136g(b)) is amended to read as follows:

``(b) WARRANTS.--Officers or employees of the United States or of any State, duly designated by the Administrator, are empowered to obtain and to execute warrants authorizing--

``(1) entry for the purposes of this section;

``(2) inspection and copying of all records required under this Act; and

``(3) seizure of any pesticide or device which is in violation of this Act.''.

(c) PROCEDURE AND COORDINATION.--Section 9 is further amended by adding at the end the following:

``(d) PROCEDURE.--Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the inspection and whether a violation of the law is suspected.

Each inspection shall be commenced and completed with reasonable promptness. If the person conducting the inspection obtains any samples of pesticides or devices, prior to leaving the premises he shall give to the person in charge of the premises a receipt describing the samples and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.''.

''(e) COORDINATION.--The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.''.

TITLE X--EXPORT OF PESTICIDES

SEC. 1001. DEFINITION OF MISBRANDED.

Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended--

(1) by striking out ``or'' at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ``; or''; and

(3) by adding at the end thereof the following new subparagraph:

``(I) in the case of a pesticide intended for export that is substantially similar in composition and use pattern to a pesticide registered under section 3, the label does not contain the same health, safety, and hazard precautions as a pesticide registered under section 3, unless such precautions on the label are in conflict with the law of the importing country.''.

SEC. 1002. DEFINITION OF IMPORTING COUNTRY.

Section 2 (7 U.S.C. 136) (as amended by section 802 of this Act) is amended by adding at the end thereof the following new subsection:

``(hh) IMPORTING COUNTRY.--The term `importing country' means the first country to which a pesticide, device, or active ingredient, subject to the notification requirement of section 17(a), is exported from the United States.''.

SEC. 1003. PESTICIDES AND DEVICES INTENDED FOR EXPORT.

(a) IN GENERAL.--Subsection (a) of section 17 (7 U.S.C. 136o(a)) is amended to read as follows:

``(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.--

``(1) VIOLATIONS.--Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be considered in violation of this Act when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to section 2(p), subparagraphs (A), (C), (D), (E), (G), (H), and (I) of section 2(q)(1), subparagraphs (A), (B), (C)(i), (C)(iii), and (D) of section 2(q)(2), sections 7 and 8, and paragraphs (2), (3), (4), (5), and (6) of section 17(a).

``(2) EXPORTS.--

``(A) This paragraph applies to a pesticide, device, or active ingredient--

``(i) for which a restricted use classification has become effective under section 3;

``(ii) for which a cancellation or suspension has become effective under section 6;

``(iii) the registration of which has been voluntarily withdrawn by the registrant, if such withdrawal was associated with concern over potential adverse public health or environmental effects; or

``(iv) that is not registered under section 3 for any use.

``(B) No pesticide, device, or active ingredient described in subparagraph (A) may be exported to any foreign country by any person unless, at least 30 days before the first shipment each year of such pesticides to such country, such person has--

``(i) notified, pursuant to paragraph (3), the person importing the pesticide and the appropriate government regulatory office in the importing country;

``(ii) received written evidence that the notification was delivered to the appropriate government regulatory office; and

``(iii) submitted a copy of the notification in English and evidence of delivery to the Administrator.

``(C) Documents referred to in subparagraph (B) shall be made available to the public, on request.

``(3) NOTIFICATION.--The notification required pursuant to paragraph (2) shall be made in an appropriate language and shall contain the following information--

``(A) the name of the pesticide and the common and chemical names of the active ingredient;

``(B) the name and address of the person exporting the pesticide;

``(C) the name and address of the person importing the pesticide;

``(D) the name and address of the appropriate government regulatory office in the importing country;

``(E) a statement of the reasons why the pesticide was canceled, suspended, voluntarily withdrawn, is not registered in the United States, or has been classified for restricted use, and the list of restrictions; and

``(F) the name and address of the office of the United States Environmental Protection Agency that, on request by the importer or official of the importing country, can provide additional information on the pesticide.

``(4) LABELS.--

``(A) The label of pesticides intended for export from the United States shall be written in an appropriate language.

``(B) Except as provided in section 2(q)(1)(H), such label may not refer to compliance with the laws of the United States unless the label also contains or is accompanied by a description of the relevant requirements of such laws.''.

(b) EFFECTIVE DATES.--

(1) Section 17(a)(2) and (3) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended

by subsection (a) of this section) shall become effective 90 days after the date of enactment of this Act.

(2) Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a list of the names, addresses, and international telecommunications codes of appropriate regulatory offices required to receive notices under section 17(a)(2)(B) of the Federal Insecticide, Rodenticide, and Fungicide Act.

(3) Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall revise the list required under paragraph (2).

(4) Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register preliminary guidelines regarding--

(A) the form of the notification required under section 17(a)(2) of the Federal Insecticide, Rodenticide, and Fungicide Act;

(B) translation of the notification and labels required under such section into the appropriate language;

(C) retention of shipping documents and other pertinent records by exporters under such section;

and

(D) procedures for public access to documents submitted by exporters under such section.

(5) Not later than 1 year after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to carry out paragraphs (2) and (3) of section 17(a) of the Federal Insecticide, Rodenticide, and Fungicide Act and this subsection.

SEC. 1004. CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.

Subsection (b) of section 17 (7 U.S.C. 136o(b)) is amended to read as follows:

``(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENT.--

``(1) ISSUANCE.--The Administrator shall transmit through the Secretary of State a notice, at such time and annually thereafter, to the appropriate governmental regulatory office of other countries and to appropriate international agencies whenever--

``(A) a registration, or a cancellation or suspension of the registration, of a pesticide becomes effective, or ceases to be effective; or

``(B) a pesticide is classified for restricted use.

``(2) CONTENTS.--A notice under paragraph (1) shall include--

``(A) the reasons for the regulatory action taken;

``(B) for canceled or suspended registrations, information concerning other pesticides that are registered under section 3 and that could be used in lieu of such pesticide; and

``(C) the name and address of the office of the United States Environmental Protection Agency that, on request, can provide additional information on the pesticide.''.

SEC. 1005. COOPERATION IN INTERNATIONAL EFFORTS.

Subsection (d) of section 17 (7 U.S.C. 136o(d)) is amended to read as follows:

``(d) COOPERATION IN INTERNATIONAL EFFORTS.--The Administrator shall--

``(1) in cooperation with the Secretary of State, other appropriate Federal agencies, and non-governmental and international organizations, actively participate in international efforts to develop improved pesticide research and regulatory programs;

``(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs;

``(3) within 1 year of the effective date of the

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, and every 3 years thereafter, conduct and publish a survey of all countries that import pesticides from United States exporters or from which the United States imports agricultural commodities, to--

``(A) ascertain what procedures are in place in each country regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides; and

``(B) control residues on foods in order to meet tolerances established under United States law; and

``(4) report to Congress annually on the activities conducted to comply with this subsection and the results thereof.''.

SEC. 1006. TOLERANCES AND REGULATIONS FOR AGRICULTURAL COMMODITIES.

Section 17 (7 U.S.C. 136o) is amended by adding at the end thereof the following:

``(f) TOLERANCES AND REGULATIONS FOR AGRICULTURAL COMMODITIES.--

``(1) REGISTRATION.--Subject to paragraph (2), if the registration of a pesticide under this Act has been canceled, suspended, or denied (unless such action was due to environmental effects) or has been voluntarily withdrawn (unless voluntarily withdrawn for economic reasons), not later than 60 days after such action--

``(A) the corresponding tolerance or exemption from tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) shall be revoked or amended; or

``(B) the corresponding food additive regulation established under section 409 of such Act (21 U.S.C. 348) shall be revoked or amended.

``(2) AMENDMENT OF TOLERANCE OR REGULATION.--A tolerance or food additive regulation may not be revoked or amended if the amendment or revocation would not permit food in commerce that contains residues of a pesticide which would be subject to the amendment or revocation--

``(A) from previously registered uses,

``(B) from foreign or United States use of existing stocks permitted under section 6(g), or

``(C) from unavoidable residual environmental contamination.

As soon as residues described in the preceding sentence decrease, the applicable tolerance shall be lowered or the applicable food additive regulation shall be revised accordingly.''.

TITLE XI--LIABILITY

SEC. 1101. LIABILITY.

(a) SECTION 12.--Section 12 (7 U.S.C. 136j) is amended by adding at the end the following:

``(c) PESTICIDE USE.--

``(1) An agricultural producer shall not be liable in any action brought after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 under this Act or any other Federal law for damages caused by pesticide use unless the producer has acted negligently. Proof that an agricultural producer applied a pesticide in accordance with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently.

``(2) An agricultural producer shall not be held liable in an action brought under section 14 for civil penalties for a violation of subsection (a)(2)(F) unless the producer applied the pesticide in a manner inconsistent with its labeling. Proof that a pesticide was applied in a manner consistent with its label instructions shall create a rebuttable presumption that the agricultural producer did not violate such subsection.

``(3) As used in this subsection, the term `agricultural producer' means a producer of agricultural commodities who (A) uses or supervises the use of any pesticide for the production of such commodities on property owned or rented by him or his employer, or (B) without compensation other than the trading of personal services, assists another agricultural producer with the application of pesticides on such producer's land.''.

TITLE XII--CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

SEC. 1201. CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS.

(a) DEFINITIONS.--Section 2(e) (7 U.S.C. 136(d)) is amended to read as follows:

``(e) APPLICATOR.--

``(1) COMMERCIAL APPLICATOR.--The term `commercial applicator' means an applicator (whether or not the applicator is a private applicator with respect to some uses) who, in the ordinary course of business or work, uses or supervises the use of any pesticide, except antimicrobial products, for any purpose or on any property other than as described in paragraph (2) of this subsection. A commercial applicator must either be certified pursuant to section 4(d) or be registered as a noncertified commercial applicator pursuant to section 4(e). Institutional, industrial, and governmental employees who apply pesticides as part of their job responsibilities are included in the term. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act.

''(2) PRIVATE APPLICATOR.--The term 'private applicator' means an applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation (other than trading of personal services between producers of agricultural commodities), on the property of another person. Any private applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any other person is not deemed to be a seller or distributor of pesticides under this Act.

''(3) CERTIFIED APPLICATOR.--The term 'certified applicator' means a commercial or private applicator who is certified under section 4.

``(4) NONCERTIFIED COMMERCIAL APPLICATOR.--The term `noncertified commercial applicator' means a person who undergoes a training program and registers with a State agency designated under section 4(a)(2)(A) consistent with the provisions of section 4(e) and who is acting under the direct supervision and the instructions and control of a certified commercial applicator who is available if and when needed, even though such certified commercial applicator is not physically present at the time and place the pesticide is applied.

``(5) NONCERTIFIED PRIVATE APPLICATOR.--The term `noncertified private applicator' means a person who has undergone training prescribed by section 4(f) and is acting under the direct supervision and instructions and control of a certified private applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(b) SECTION 4.--Section 4 (7 U.S.C. 136b) is amended--

(1) in subsection (a)(2)(B), by inserting after ``plan'' the first time it appears ``, including requirements for State enforcement personnel to be certified in the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility,''; and

(2) by adding at the end the following:

''(d) COMMERCIAL APPLICATOR CERTIFICATION.--Notwithstanding the provisions of subsection (a), in order to operate as a certified commercial applicator a person must, as a minimum--

''(1) undergo training (A) prescribed and administered by the State agency described under subsection (a)(2)(A), including training which uses updated national core material approved by the Administrator, within 12 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health, and the environment, and (B) conducted by trainers whose competency requirements and range of expertise shall be prescribed by such State agency;

''(2) have field, institutional, or industrial plant experience in pesticide use and application, with the specific category of use and related length of experience commensurate with potential risks and exposure to the applicator and the environment set by such State agency; and

``(3) pass (with not less than 70 percent correct) an exam prescribed by such State agency.

``(e) NONCERTIFIED COMMERCIAL APPLICATOR TRAINING AND REGISTRATION.--In order to operate as a noncertified commercial applicator a person must--

``(1) undergo basic training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1) and conducted by trainers whose competency requirements and range of expertise shall be prescribed by the such State agency; and

``(2) register with such State agency by providing to the State agency a signed statement from the trainer and the applicator stating that the prescribed minimum training have been provided by the trainer and received by the applicator.

``(f) NONCERTIFIED PRIVATE APPLICATOR TRAINING.--In order to operate as a noncertified private applicator--

``(1) a person must undergo basic training based on materials developed by the State agency designated under subsection (a)(2)(A) on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health and the environment and given by a certified private applicator or trainer whose competency requirements and range of expertise shall be prescribed by any such State agency; and

``(2) upon request, the employer of a noncertified private applicator must verify by a signed statement from the trainer and the applicator to the delegate State lead pesticide regulatory agency that the training has been given and received.

``(g) CERTIFIED PRIVATE APPLICATOR TRAINING.--Notwithstanding the provisions of subsection (a), in order to operate as a certified private applicator, a person must, at a minimum, undergo training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1) and conducted by trainers whose competency requirement and range of expertise are prescribed by such State agency and registered with such State agency as required by subsection (e)(2).

``(h) RECERTIFICATION AND REREGISTRATION.--All certified applicators and noncertified commercial applicators must undergo refresher training on an ongoing basis over no more than a 4-year period. The refresher training shall be prescribed by the State agency designated under subsection (a)(2)(A), including training in the updated national core materials referred to in subsection (d)(1) and the relevant requirements of this section. At the end of that period, the applicator shall be recertified or reregistered after complying with the relevant competency requirements established in this section.

``(i) UNIFORM TRAINING.--The Administrator shall establish a uniform nationwide course of training which meets the requirements of this section for applicators whose applications will be performed in more than one State. The State agencies designated under subsection (a)(2)(A) of the relevant State or the Administrator if the State fails to agree on such a program shall certify or register such applicators.

``(j) MINIMUM STANDARDS FOR TRAINING PROGRAMS.--The Administrator shall establish minimum standards for the training programs and minimum competency standards for trainers referred to in subsections (d), (e), (f), and (g). Training programs prescribed and administered by any State pursuant to such subsections shall comply with the minimum standards established by the Administrator and the requirements of this section within 2 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986. If a State's training program fails to meet minimum standards established by the Administrator, or a State refuses to prescribe and administer such a program, the Administrator shall exercise authority to prescribe and administer the training program referred to in subsections (d), (e), (f), and (g) in such State but only pursuant to the procedures set out in section 27(b).

``(k) PRIVATE TRAINING PROGRAMS.--The delegate State agency shall approve any privately administered training program which it determines meet the requirements established under this section.

``(l) REFRESHER TRAINING.--A commercial or private applicator certified to use or supervise the use of a restricted use pesticide before a State training program is in effect which complies with subsection (j), shall undergo refresher training and recertification pursuant to subsection (h) not more than 4 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or when required to be recertified by the State, whichever comes first.''.

(c) SECTION 26.--Section 26 is amended by adding at the end the following:

``(d) Federal field personnel responsible for enforcement shall be certified in the State for the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility.''.

(d) PESTICIDE DEALER.--Section 2 (as amended by section 1002) is amended by adding at the end the following:

``(ii) PESTICIDE DEALER.--The term `pesticide dealer' means any person who, in the ordinary course of business, sells pesticides, but shall not include retail vendors who solely sell antimicrobials and household nonrestricted use pesticides.''.

(e) STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.--Section 11 (7 U.S.C. 136i) is amended by adding at the end the following:

``(c) RECORDS OF COMMERCIAL APPLICATORS.--The Administrator, or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require commercial applicators to maintain records of pesticide applications, including the identity and amount of the pesticides applied, and the date and location of such applications. A commercial applicator shall maintain the records required under this subsection for 2 years.

``(d) RECORDS OF PESTICIDE DEALERS.--The Administrator or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require pesticide dealers to maintain records of restricted use pesticide sales and those nonrestricted pesticides designated by the Administrator, because they may cause unreasonable adverse effects on health or the environment, except sales of antimicrobials. Such records shall include the identity of the pesticide, identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of distribution or sale. A pesticide dealer shall maintain the records required under this subsection for 3 years.

``(e) INSPECTION OF RECORDS.--For purposes of enforcing this Act, upon request of the Administrator or the State agency, whichever has primary enforcement responsibility pursuant to section 26, a commercial applicator and a pesticide dealer shall, upon presentation of proper credentials and a written statement of reasons, furnish or permit the Administrator or the State agency at all reasonable times to have access to, and to copy records maintained pursuant to subsections (c) and (d) of this section.

``(f) ACCESS TO RECORDS.--The records required to be kept under subsections (c) and (d) shall be accessible within 30 days of the request. When necessary to protect the public health and in medical emergencies, this information shall be provided immediately, but no later than 24 hours after the request is made. Employees of dealers or commercial applicators shall have access to the information records that directly relate to their employment duties. An employer shall know or have access to the brand name and common or chemical name of the pesticide and safety, first aid, and antidote information listed on the label or labeling of any pesticide used and shall be responsible for promptly making such information available, upon request, to an employee exposed to a pesticide and to treating medical personnel. Customers shall have access to the information records that directly relate to pesticides which they have purchased or pesticide applications for which they have contracted. State enforcement agencies shall obtain and make available, upon reasonable requests, records relating to any pesticide application or sale to any person who may be directly and adversely affected by any such pesticide application or sale.''.

(c) SECTION 25.--Section 25 (7 U.S.C. 136w) is amended by adding at the end the following:

''(e) WORKER HEALTH AND SAFETY PROGRAM.--

''(1) The Administrator shall establish and maintain an occupational health program and a separate administrative unit within the Office of Pesticide Programs which shall be responsible for the protection of workers who mix, load, or apply pesticides or work in areas where pesticides are applied. Such unit shall develop and maintain expertise on working conditions and practices of workers exposed to pesticides, participate in the development of regulations, standards, and registration data requirements relating to the health and safety of workers exposed to pesticides, and evaluate registration, reregistration, interim administrative review, and cancellation decisions with respect to effects of such actions on worker health and safety.

``(2) The Administrator shall issue regulations which require (A) the protection of employees who mix, load, or apply pesticides and employees who work in pesticide-treated areas, including the use of protective clothing and equipment; emergency medical care, and hygiene, and safe re-entry intervals; and (B) the training of each employee who mixes, loads, or applies a pesticide in worker, public health, and environmental hazards, in clothing and protective equipment, in common symptoms of pesticide poisoning, in the location of emergency medical treatment, and in applicable laws, regulations, and labeling requirements.''.

(d) SECTION 12.--Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by striking out ``or'' at the end of paragraph (2)(O), by striking out the period at the end of paragraph (2)(P) and inserting in lieu thereof a semicolon, and by adding after paragraph (2)(P) the following::

``(Q) to obtain and to use records acquired under section 11(f) in furtherance of a commercial purpose;

``(R) to violate the regulations issued by the Administrator under section 25(e)(1)(B);''.

TITLE XIII--STATE AUTHORITY

SEC. 1301. STATE REGISTRATIONS.

Section 24(c) (7 U.S.C. 136v(c)) is amended--

(1) by striking out in paragraph (1) the period at the end and inserting in lieu thereof a comma and the following: ``except that such a registration shall expire and be of no further effect, without further action by the Administrator--

``(A) at the end of the period, if any, provided as the duration of the registration by the State which approved it, or

``(B) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State which issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect.'', and

(2) by adding at the end of paragraph (2) the following: ``The Administrator shall establish criteria which define the conditions under which a special local needs registration may be disapproved, taking into account geographic patterns of use.''.

TITLE XIV--DEFINITIONS

SEC. 1401. DEFINITIONS.

(a) AMENDMENTS.--

(1) SECTION 2(ee).--Section 2(ee) (7 U.S.C. 136(ee)) is amended--

(A) by inserting at the end of clause (1) ``unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;'', and

(B) in clause (3) by inserting after ``labeling'' the following: ``unless the labeling specifically states that the product may be applied only by the methods specified on the labeling; or''.

(2) NEW DEFINITION.--Section 2 (as amended by section 1202(d)) is further amended by adding at the end the following:

``(jj) TO DISTRIBUTE OR SELL.--The term `to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticide products or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.''.

(b) CONFORMING AMENDMENTS.--

(1) Section 3(a) (7 U.S.C. 136a(a)) is amended to read as follows:

``(a) REQUIREMENT OF REGISTRATION.--Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide which is not registered under this Act.''.

(2) Section 12(a) (7 U.S.C. 136j(a)) is amended--

(A) in subsection (a)(1) by striking out ``distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person--'' and inserting in lieu thereof ``to distribute or sell to any person--'',

(B) in subsection (a)(2)(F) by striking out ``to make'' and inserting in lieu thereof ``to distribute or sell, or to make''.

(3) Section 14(a)(1) (7 U.S.C. 1361) is amended by striking out ``distributor'' and inserting in lieu thereof ``person who distributes or sells any pesticide or device''.

(4) Section 14(b)(1) is amended by striking out ``distributor'' and inserting in lieu thereof ``person who distributes or sells any pesticide or device''.

TITLE XV--INFORMATION REQUESTED

SEC. 1501. INFORMATION REQUESTED.

Section 7 (7 U.S.C. 136e) is amended by adding at the end the following:

``(f) INFORMATION REQUESTED.--Consistent with section 3507(a)(1) of title 44, United States Code, the Administrator shall make efforts to catalogue and retrieve data in such manner as to eliminate or reduce additional information requests from registrants, particularly those requests which require the submission of duplicate confidential data.''.

TITLE XVI--STATE COOPERATION, AID, AND TRAINING

SEC. 1601. COOPERATIVE AGREEMENTS.

Section 23(a) (7 U.S.C. 136u) is amended to read as follows:

``(a) COOPERATIVE AGREEMENTS.--

``(1) The Administrator may enter into cooperative agreements with States and Indian tribes to provide an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator. There are authorized to be appropriated such sums as may be necessary for such cooperative agreements.

``(2) The Administrator may enter into cooperative agreements with States and Indian tribes to provide an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator. There are authorized to be appropriated such sums as may be necessary for such cooperative agreements.''.

TITLE XVII--SCIENTIFIC ADVISORY PANEL

SEC. 1701. TERM.

Section 25(d) (& U.S.C. 136w) is amended--

(1) by striking out ``7 members'' and inserting in lieu thereof ``9 members'', and

(2) by striking out the sentence beginning ``The advisory panel established''.

TITLE XVIII--STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1801. AUTHORITY FOR EPA ACTION.

The second sentence of section 27(a) (7 U.S.C. 136w-2) is amended to read as follows: ``If a State--

``(1) does not promptly initiate appropriate investigative action after receiving such referral, or

``(2) does not initiate appropriate enforcement action within 90 days of receipt of such referral,

the Administrator may act upon such complaint or information in accordance with this Act.''.

TITLE XIX--UNLAWFUL ACTS

SEC. 1901. UNLAWFUL ACTS.

(a) SECTION 12(a).--Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 1202) is amended--

(1) by amending paragraph (1)(A) to read as follows:

``(A) any pesticide product which is not registered under section 3 or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;'';

(2) by amending paragraph (2)(B) to read as follows:

``(B) to refuse to (i) prepare, maintain, or submit any records required by or under this Act, (ii) submit any reports required by or under this Act, or (iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;'';

(3) by amending paragraph (2)(K) to read as follows:

``(K) to violate any cancellation order issued under this Act;'';

(4) in paragraph (2)(M) by striking out ``section 8'' and inserting in lieu thereof ``this Act'';

(5) by adding at the end the following:

``(S) to willfully falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed submitted to the Administrator, or which the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

``(T) to willfully submit data known to be false to the Administrator in support of a registration; or

``(U) to violate any regulation issued under section 3(a), 3(d), 4(a), 10(e), 17(c), 17(e), 19(a), or 25(c) of this Act.''; and

(6) by striking out ``and any regulations thereunder: *Provided*, That it'' in paragraph (2)(F) and inserting in lieu thereof ``It''.

(b) ACTS OF OFFICERS, AGENTS, ETC.--

(1) Section 12 (7 U.S.C. 136j) (as amended by section 1101) is amended by adding at the end the following:

``(d) ACTS OF OFFICERS, AGENTS, ETC.--When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.''.

(2) Paragraph (4) of section 14(b) (7 U.S.C. 1361) is repealed.

TITLE XX--PENALTIES

SEC. 2001. PENALTIES.

(a) SECTION 14(a).--Section 14(a) (7 U.S.C. 1361(a)) is amended--

(1) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.--

''(A) Any registrant, applicant for a registration, or pesticide testing facility which violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $25,000 for each offense. If a registrant, applicant for a registration, or pesticide testing facility violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $50,000 for such subsequent violation.

''(B) Any commercial applicator of restricted use pesticides, wholesaler, dealer, retailer, or other distributor of pesticides which violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $10,000 for each offense. If a commercial applicator of restricted use pesticides, wholesaler, dealer, retailer, or other distributor of pesticides violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $20,000 for such subsequent violation.''

(2) by amending paragraph (2) to read as follows:

``(2) PRIVATE APPLICATOR.--Any private applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation and any other person not included in paragraph (1) which violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If such a person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for such subsequent violation. The Adminstrator may waive the requirement for a warning or citation for a first offense by a private applicator if the Administrator determines that the violation was intentional or caused significant harm to health or the environment.'',

(3) by adding at the end of paragraph (3) the following: ``If the person neither resides nor has his principal place of business in the United States, the Administrator may designate a site for the hearing in the United States which is reasonably convenient for the parties.'', and

(4) in the first sentence of paragraph (4) by inserting ``the economic benefit (if any) resulting from the violation,'' after ``to continue in business,''.

(b) SECTION 14(b).--

(1) Section 14(b)(1) (7 U.S.C. 1361(b)(1)) is amended to read as follows:

``(1) IN GENERAL.--

Any registrant, applicant for a registration, or pesticide testing facility which knowingly violates any provision of this Act shall be fined $50,000 or imprisoned for not more than one year, or both.

``(B) Any commercial applicator of a restricted use pesticide, wholesaler, dealer, retailer, or other distributor of pesticides which knowingly violates any provision of this Act shall be fined $25,000 or imprisoned for not more than one year, or both.''.

(2) Section 14(b)(2) is amended (A) by striking out ``$1,000'' and inserting in lieu thereof ``$2,000, and (B) by striking out ``30'' and inserting in lieu thereof

``60''.

(c) SUBPOENAS.--Section 14(a) is amended by adding at the end the following:

``(6) SUBPOENAS.--The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.''.

TITLE XXI--CONGRESSIONAL REVIEW

SEC. 2101. CONGRESSIONAL REVIEW.

Section 25(a)(4) (7 U.S.C. 136w(a)(4)) is amended to read as follows--

``(4) CONGRESSIONAL REVIEW OF REGULATIONS.--Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.''.

TITLE XXII--REVIEW OF REGULATIONS

SEC. 2201. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

''(e) REVIEW OF REGULATIONS.--

''(1) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or any refusal of a petition to modify or rescind such a regulation shall be reviewable only as provided by this paragraph. Any person may obtain judicial review of such a regulation or refusal by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia. Any petition under this paragraph for review of a regulation shall be filed within 60 days from the date of promulgation of the regulation as determined by the Administrator in the Federal Register. Any petition under this paragraph for review of a refusal to modify or rescind a regulation shall be filed within 60 days after such refusal. The scope of review shall be as specified in section 706 of title 5, United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of the regulation.

``(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act or any appeal therefrom or in any proceeding under section 13, 14, or 16(c) or any appeal therefrom.''.

TITLE XXIII--DELEGATION AND COOPERATION

SEC. 2301. DELEGATION AND COOPERATION.

Section 22 (7 U.S.C. 136t) is amended by adding at the end the following:

``(c) EFFECT ON CERTAIN OTHER LAWS.--In exercising any authority under this Act, the Administrator shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The Administrator and the Secretary of Labor shall coordinate their effort to regulate pesticide use in the work place so as to avoid duplicative and conflicting regulation.''.

TITLE XXIV--INDEMNITIES

SEC. 2401. REPORT BY EPA.

Section 15 (7 U.S.C. 136m) is amended by adding at the end the following:

``(c) REPORT.--If the Administrator has taken an action which under subsection (a) requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate--

``(1) the action taken which requires the payment of indemnification,

``(2) the reasons for taking such action,

``(3) the estimated cost of the payment,

``(4) the effect such payment would have on the budget of the Administrator to implement this Act without a specific additional appropriation for the payment, and

``(5) a request for the appropriation of funds for such payment.

If the funds authorized to be appropriated under section 32 are not sufficient to cover a request made under this subsection, there are authorized to be appropriated such sums as may be necessary for such request.''.

TITLE XXV--AUTHORIZATION FOR APPROPRIATIONS

SEC. 2501. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1986, section 33 (7 U.S.C. 136y) (as redesignated by section 601(b)) is amended to read as follows:

``SEC. 33. AUTHORIZATION FOR APPROPRIATIONS.

``There is authorized to be appropriated to carry out this Act (other than sections 23 and 31) $__________ for fiscal year 1987, $__________ for fiscal year 1988, $__________ for fiscal year 1989, and $__________ for fiscal year 1990.''.

TITLE XXVI--RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER

SEC. 2601. DEFINITION OF GROUNDWATER.

Section 2 (7 U.S.C. 136) (as amended by section 1401) is amended by adding at the end thereof the following new subsection:

``(kk) GROUNDWATER.--The term `groundwater' means water below the land surface in a zone of saturation.''

SEC. 2602. PROTECTION OF GROUNDWATER.

The Act (as amended by section 601) is amended by adding at the end the following new section:

``SEC. 32. PROTECTION OF GROUNDWATER.

``(a) NOTIFICATION.--

``(1) REQUIREMENT.--

``(A) When a registrant of a pesticide obtains confirmed information while conducting monitoring required by the Administrator, on his own initiative or from another person that the pesticide has been--

``(i) detected in groundwater for the first time after the effective date of the Federal

Insecticide, Fungicide, and Rodenticide Amendments of 1986, or

``(ii) detected in groundwater at a concentration at or greater than the groundwater action level established under subsection (c),

the registrant shall notify the Administrator of such information within 15 working days of obtaining such information and shall make the notification required by subparagraph (B).

``(B) The registrant shall also notify the Administrator of further information on confirmed detection and nondetection of the pesticide in groundwater, including resampling information, as the Administrator may require, taking into account the requirement to make the findings described in subsection (d).

``(2) CONTENT OF NOTIFICATION.--A notification made under paragraph (1) shall contain confirmed information known to the registrant on the level of pesticide detection, the frequency of detection, the location (including depth) of the detection, the date of the detection, well construction if detected in a well, and quality assurance and control procedures employed in making the detection, including the specificity and limit of detection of the method used in making the detection.

``(b) INVESTIGATION AND MONITORING.--

``(1) INVESTIGATION.--Upon receiving notification under subsection (a) from any person of confirmed information on detection of a pesticide in groundwater, the Administrator shall review the nature and extent of the presence of the pesticide in groundwater to determine whether further action should be taken under this Act.

``(2) MONITORING.--If the Administrator determines that additional data on the presence of a pesticide in groundwater are required to maintain in effect an existing registration of the pesticide, the Administrator may, under section 3(c)(2)(B), require registrants of the pesticide to conduct groundwater monitoring. Monitoring shall be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator. The Administrator shall, in consultation with the Secretary of Agriculture, consider all relevant information in determining appropriate monitoring, including the magnitude and frequency of the detection, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction, rates of degradation, reliability and analytical accuracy of the detection, and whether the groundwater for which monitoring is required is a current or potential source for human consumption.

''(3) JUDICIAL REVIEW.--Monitoring requirements shall be subject to judicial review pursuant to section 16(a).

''(c) GROUNDWATER ACTION LEVELS.--

''(1) REQUIREMENT.--

''(A) GENERAL RULE.--After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall establish a groundwater action level which shall guide regulatory action under this section. In establishing the groundwater action level under clauses (ii) and (iii) of subparagraph (B), the Administrator shall consider the level of the pesticide in potable water at which no known or anticipated adverse effects on the health of persons occur, the need for an adequate margin of safety, and the validity, completeness, and adequacy of data about the pesticide.

''(B) GROUNDWATER ACTION LEVELS.--The groundwater action levels are as follows:

''(i) If the Administrator has promulgated a maximum contaminant level for a pesticide in drinking water supplied by public water systems under section 1412(b)(3) of the Public Health Service Act, the groundwater action level shall be the maximum contaminant level.

``(ii) If a maximum contaminant level has not been promulgated and the Administrator has calculated a health advisory level for a pesticide in drinking water under section 1442 of the Public Health Service Act, the groundwater action level shall be the health advisory level until a maximum contaminant level has been promulgated.

``(iii) If a maximum contaminant level or health advisory level has not been established under title XIV of the Public Health Service Act or is not established under such title within 60 days of the Administrator receiving confirmed information that a pesticide has been detected in groundwater, not later than 90 days after receiving such confirmed information of a detection, the Administrator shall promulgate an interim groundwater action level by informal rulemaking. If all required chronic, oncogenicity, reproduction, or teratogenicity data are absent for the pesticide, the interim groundwater action level for the pesticide shall be at the lowest level of detection. If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent for the pesticide, the interim groundwater action level for the pesticide shall include an additional margin of safety which takes into account the absence of such data.

The interim groundwater action level shall remain effective until a maximum contaminant level or health advisory level for the pesticide is established under title XIV of the Public Health Service Act and implemented under clause (i) or (ii).

``(2) FINAL AGENCY ACTION.--The Administrator shall publish in the Federal Register all groundwater action levels, which, with respect to clause (ii) or (iii), shall constitute final agency action judicially reviewable pursuant to section 16.

``(d) FINDINGS.--

``(1) REQUIREMENT.--After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall promptly issue findings whether--

``(A) there is a reasonable likelihood that the groundwater action level will be exceeded in groundwater at a current or potential point of human consumption, and

``(B) the presence of the pesticide in

groundwater was a result of pesticide use in compliance with this Act.

``(2) PROCEDURES.--Findings under paragraph (1) shall be published in the Federal Register. In making the finding under paragraph (1)(A), the Administrator shall consult with the Secretary of Agriculture and appropriate Federal and State agencies in determining potential points of human consumption. The finding under paragraph (1)(B) shall not delay or preclude registration amendments under subsection (e).

``(e) REGISTRATION AMENDMENTS.--

``(1) REQUIREMENT.--

``(A) CURRENT POINTS OF HUMAN CONSUMPTION.--After making the finding under subsection (d)(1)(A), the Administrator shall, with respect to a current point of human consumption, promptly require amendments to the registration of the pesticide with respect to which the finding was made that are necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the groundwater action level involved in the finding to be exceeded at a current point of human consumption and shall notify registrants of such amendments. Registration amendments may include--

``(i) limitations on the purposes for which a pesticide may be used, considering factors such as environmentally sensitive areas and conditions,

``(ii) limitations on the rate at which the pesticide is applied,

``(iii) limitations on the time or frequency of pesticide use,

``(iv) limitations on the method of pesticide use,

``(v) reporting or other requirements, including label changes or changes in classification,

``(vi) requirements for the training or certification of pesticide applicators or other persons using the pesticide, or

``(vii) any other requirement to ensure that the applicable groundwater action level will not be exceeded.

The registration amendments shall be directed to the same or similar uses of the pesticide, geographical and hydrogeological areas, and other conditions which led to the findings under subsection (d)(1)(A). In requiring such amendments, the Administrator shall consider the effect of any voluntary actions by registrants or other persons to prevent the action level from being exceeded.

``(B) POTENTIAL POINTS OF HUMAN CONSUMPTION.--After making the findings under subsection (d)(1)(A) with respect to a potential point of human consumption, the Administrator shall promptly require amendments to the registration that are necessary to ensure that use of the pesticide involved in the finding in accordance with the amended registration will not cause the groundwater action level to be exceeded at a potential point of human consumption and shall notify registrants of such amendments. In establishing such amendments, the Administrator shall--

``(i) meet the requirements of subparagraph (A),

``(ii) take into account when such potential points of human consumption will likely be used, and

``(iii) consider the views of the Secretary of Agriculture and other appropriate Federal and State agencies.

``(2) PROCEDURES.--Registration amendments shall be imposed in accordance with the procedures established by section 6(b).

``(f) USE PROHIBITION.--

"(1) REQUIREMENT.--After receiving confirmed information that a pesticide, as a result of use, has been detected above the groundwater action level at a current point of human consumption, the Administrator shall immediately notify the registrant and the Secretary of Agriculture and shall, within 30 days after providing such notice--

"(A) require registration amendments as described in subsection (e)(1)(A) if the registrant can demonstrate during such 30 days with reasonable certainty that such amendments will bring and retain concentrations of the pesticide at or below the groundwater action level at points of human consumption, or

"(B) prohibit use in the surface and subsurface area surrounding the point of human consumption through which the pesticide is reasonably likely to move toward and reach such point of human consumption and require monitoring at other similar locations under subsection (b)(2).

The Administrator shall publish the action in the Federal Register and take appropriate steps to inform all registrants, potentially affected persons, and interested members of the public. Such notice shall specify the factual findings and conclusions relied upon in support of the decision. Persons adversely affected by any use prohibition required under subparagraph (B) shall have an opportunity, in accordance with paragraph (2), for an expedited hearing.'

``(2) HEARING.--If any person adversely affected by a use prohibition requests within 5 days after publication of the notice under paragraph (1) a hearing on the use prohibition, the Administrator shall hold a hearing in accordance with the procedures in section 6(c). If a hearing is requested, it shall be completed and the Administrator shall issue within 90 days a final order continuing or discontinuing the use prohibition. The use prohibition shall be effective until the Administrator enters a final order after the hearing. In the hearing the Administrator shall have the burden of proving with reasonable certainty that--

``(A) the groundwater action level has been exceeded in groundwater at a current point of human consumption, and

``(B) the use prohibition is directed to the use at the location or locations described in paragraph (1)(B) where the groundwater action level was exceeded.

In the hearing the registrant shall have the burden of proving with reasonable certainty that registration amendments will bring and retain concentrations of the pesticide at or below the action level at points of human consumption.

"(3) TERMINATION OF USE PROHIBITION.--Upon petition to the Administrator by a registrant or other interested person, a use prohibition shall be discontinued if the petitioner establishes with reasonable certainty that concentrations of the pesticide are at or below the groundwater action level in groundwater at points of human consumption and will remain at or below such level.

"(4) JUDICIAL REVIEW.--The Administrator's action or failure to act under this subsection shall be subject to judicial review under section 16(a).

"(g) SPECIAL REVIEW.--Immediately upon receiving confirmed information that a pesticide has been detected above the groundwater action level in groundwater not at current or potential points of human consumption, the Administrator shall initiate an interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(h) OTHER AUTHORITY.--Nothing in this section prohibits or restricts any other authority of the Administrator under this Act.".

TITLE XXVII--CLARIFYING AMENDMENTS

SEC. 2701. CLARIFYING AMENDMENTS.

(a) SECTION 3.--

(1) Section 3(a) (7 U.S.C. 136a(c)) is amended by adding at the end the following: ``To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use of any pesticide which is not registered under this Act and which is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.''.

(2) Section 3(d) (7 U.S.C. 136a(d) is amended--

(A) in the second sentence, by inserting ``or reclassified'' after ``classified'' each time it appears and by striking out ``on the initial classification''; and

(B) in paragraph (1)(C), by striking out the colon preceding clause (i) and inserting in lieu thereof a period, by striking out clause (i), by striking out ``(ii)'', by striking out the last sentence, and by running in the material after ``restricted use.'' so that the margin is the same as the margin of paragraph (1)(C).

(b) SECTION 4.--The last sentence of section 4 (7 U.S.C. 136b) is amended by inserting ``by regulation'' after ``may''.

(c) SECTION 7.--Section 7(c) (7 U.S.C. 136e(c)) is amended--

(1) by strking out ``shall inform the Administrator'' and inserting in lieu thereof ``shall, in accordance with regulations promulgated by the Administrator, submit to the Administrator a report'',

(2) by striking out ``of the'' and inserting in lieu thereof ``describing'', and

(3) by striking out ``information'' and inserting in lieu thereof ``report''.

(d) SECTION 25.--Section 25(c) (7 U.S.C. 136w(c)) is amended--

(1) by inserting ``or by regulation'' after ``hearing'', and

(2) in paragraph (5), by striking out ``prescribe regulations requiring'' and inserting in lieu thereof ``require''.

TITLE XXVIII--TABLE OF CONTENTS AMENDMENTS

SEC. 2801. TABLE OF CONTENTS.

The table of contents contained in section 1(b) (7 U.S.C. prec. 121) is amended--

(1) by striking out the item relating to section 2(e) and inserting in lieu thereof the following:

``(e) Applicator.
``(1) Commercial applicator.
``(2) Private applicator.

``(3) Certified applicator.
``(4) Noncertified commercial applicator.
``(5) Noncertified private applicator.'';

(2) by striking out the item relating to section 2(n) and inserting in lieu thereof the following:

``(n) Ingredient statement.
``(1) In general.
``(2) Common name.'';

(3) by adding at the end of the items relating to section 2 the following:

``(ff) Outstanding data requirement.
``(1) In general.
``(2) Factors.
``(gg) Pesticide testing facility.
``(hh) Importing country.
``(ii) Pesticide dealer.
``(jj) To distribute or sell.
``(kk) Groundwater.'';

(4) by striking out the item relating to section 3(a) and inserting in lieu thereof the following:

``(a) Requirement of registration.'';

(5) by striking out the item relating to section 3(c)(8) and inserting in lieu thereof the following:

``(8) Interim administrative review.
``(A) In general.
``(B) Criteria for initiating an interim administrative review.
``(C) Review requirement.
``(D) Pre-review notice procedures.
``(E) Notice.
``(F) Review procedure.
``(G) Judicial review.'';

(6) by adding at the end of the items relating to section 3(c) the following:

``(9) Preregistration access to data.'';

(7) by striking out the item relating to section 3(g) and inserting in lieu thereof the following:

``(g) Priority list and data development statements for inert ingredients.
``(1) Establishment of list.
``(2) Publication of list.
``(3) Judicial review.
``(4) Removal of ingredients.
``(A) Ingredients involving interim administrative reviews.
``(B) Ingredients involving additional data.
``(5) Number of ingredients.
``(6) Data development statements.
``(7) Construction.
``(h) Substitution of inert ingredients.
``(i) Formula statements.
``(1) Listed inert ingredients.
``(2) All other inert ingredients.'';

(8) by inserting after the items relating to section 3 the following:

``Sec. 3A. Reregistration of registered pesticides.
``(a) General rule.
``(b) Special authorities of E.P.A.
``(1) Guidelines.
``(2) Monitoring.
``(3) Suspensions and penalties.
``(c) Reregistration phases.
``(d) Phase one.
``(1) Priority for reregistration.
``(2) Reregistration lists.
``(3) Judicial review.
``(4) Notice to registrants.
``(e) Phase two.
``(1) In general.
``(2) Notice of reregistration.
``(3) Missing or inadequate data.
``(4) Time periods.
``(5) Cancellation and removal.
``(f) Phase three.
``(1) Data information.
``(2) Time periods.
``(g) Phase four.

``(1) Independent review and identification of outstanding data requirements.
``(2) Time periods.
``(h) Phase five.
``(1) Data review.
``(2) Reregistration and other actions.
``(A) Reregistration.
``(B) Other action.
``(i) Compensation and data submitter.
``(j) Fees.
``(1) Initial fee for food or feed pesticide active ingredients.
``(2) Final fee for food or feed pesticide active ingredients.
``(3) Fees for other pesticide active ingredients.
``(4) Reduction or waiver of fees for minor use and other pesticides.
``(5) Other fees.
``(6) Apportionment.
``(k) Revolving fund.
``(l) Judicial review.'';

(9) by adding at the end of the items relating to section 4 the following:

``(d) Commercial applicator certification.
``(e) Noncertified commercial applicator training and registration.
``(f) Noncertified private applicator training.
``(g) Certified private applicator training.
``(h) Recertification and reregistration.
``(i) Uniform training.
``(j) Minimum standards for training programs.
``(k) Private training programs.
``(l) Refresher training.'';

(10) by striking out the items relating to section 6(a)(1) and 6(a)(2);

(11) by striking out the item relating to section 6(b) and inserting in lieu thereof the following:

``(b) Cancellation and change in classification or labels.
``(1) Notice of cancellation or change in classification.

``(2) Hearing.
``(3) Factors.
``(4) Label changes.'';

(12) by striking out the item relating to section 6(f) and inserting in lieu thereof the following:

``(f) Hearing procedures after interim administrative review.
``(1) Request for hearing.
``(2) Procedures.
``(g) General provisions.
``(1) Voluntary cancellation
``(2) Publication of notice.
``(3) Existing stocks.
``(4) Additional information.
``(h) Cancellation of registration based on false or invalid data.
``(1) Notice.
``(2) Invalid data.
``(3) False data.
``(4) Hearing.
``(i) Judicial review.'';

(13) by adding at the end of the items relating to section 7 the following:

``(e) Fact sheets.
``(f) Information requests.'';

(14) by striking out the items relating to section 8 and inserting in lieu thereof the following:

``Sec. 8. Records.
``(a) Authority to require records.
``(b) Limitations.'';

(15)(A) by amending the item relating to section 9(a) to read as follows:

``(a) Authority to enter, inspect, and copy.''; and

(B) by adding at the end of the items relating to section 9 the following:

``(d) Procedure.
``(e) Coordination.'';

(16) by adding at the end of the items relating to section 10 the following:

``(h) Data disclosure to States.
``(1) In general.
``(2) Action for just compensation.'';

(17) by adding at the end of the items relating to section 11 the following:

``(c) Records of commercial applicators.
``(d) Records of pesticide dealers.
``(e) Inspection of records.
``(f) Access to records.'';

(18) by adding at the end of the items relating to section 12 the following:

``(c) Pesticide use.
``(d) Acts of officers, agents, etc.'';

(16) by adding at the end of the items relating to section 14(a) the following:

``(6) Subpoenas.'';

(19) by striking out the item relating to section 14(b)(4);

(20) by adding at the end of the items relating to section 15 the following:

``(c) Report.'';

(21) by adding at the end of the items relating to section 16 the following:

``(e) Review of regulations.'';

(22) by striking out the items relating to subsections (a) and (b) of section 17 and inserting in lieu thereof the following:

``(a) Pesticides and devices intended for export.
``(1) Violations.
``(2) Exports.
``(3) Notification.
``(4) Labels.
``(b) Cancellation notices furnished to foreign governments.
``(1) Issuance.
``(2) Contents.'';

(23) by adding at the end of the items relating to section 17 the following:

``(f) Tolerances for agricultural commodities.
``(1) Registration.
``(2) Amendment of tolerance or regulation.'';

(24) by adding at the end of the items relating to section 22 the following:

``(c) Effect on certain other laws.'';

(25) by adding at the end of the items relating to section 25(a) the following:

``(4) Congressional review of regulations.'';

(26) by adding at the end of the items relating to section 25 the following:

``(e) Worker health and safety program.''; and

(27) by striking out the item relating to section 31 and inserting in lieu thereof the following:

``Sec. 31. Collection, dissemination, and utilization of data.
``(a) Data systems.

``(b) Data retrieval.
``(c) Index.
``(d) Report.
``(e) Confidentiality.
``(f) Authorization.
``Sec. 32. Protection of groundwater.
``(a) Notification.
``(1) Requirement.
``(2) Content of notification.
``(b) Investigation and monitoring.
``(1) Investigation.
``(2) Monitoring.
``(3) Judicial review.
``(c) Groundwater action levels.
``(1) Requirement.
``(A) General rule.
``(B) Groundwater action levels.
``(2) Final agency action.
``(d) Findings.
``(1) Requirement.
``(2) Procedures.
``(e) Registration amendments.
``(1) Requirement.
``(A) Current points of human consumption.
``(B) Potential points of human consumption.
``(2) Procedures.
``(f) Use prohibition.
``(1) Requirement.
``(2) Hearing.
``(3) Termination of use prohibition.
``(4) Judicial review.
``(g) Special review.
``(h) Other authority.
``Sec. 32. Authorization for appropriations.''.

TITLE XXIX--EFFECTIVE DATE

SEC. 2901. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect upon the expiration of 60 days after the date of the enactment of this Act.

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May 13,1986

TO : House Agriculture Committee
Attn: Charlie Rawls, Associate Counsel

FROM : James Aidala JVA
Analyst in Environmental Policy

SUBJECT : Summary of FIFRA Amendments

Based on the May 12, 1986 draft of the Subcommittee print of amendments to FIFRA, I have prepared the following summary of the proposal to be used during Subcommittee mark-up of H.R.4364. Since you are already preparing a detailed section-by-section analysis of the bill, I have tried to be very brief in my description of the amendments. These descriptions are not intended to be exhaustive, nor are they intended to reflect a legal analysis or legal interpretation of FIFRA or the proposed amendments.

These summary descriptions also focus on changes the amendments would make to the existing FIFRA and EPA pesticide program, and assume the reader is generally familiar with the current statute and program. For more detailed information about these subjects, the reader should be referred to other background materials developed by the Committee or the memos on various FIFRA subjects recently prepared by CRS.

TITLE I--Preregistration Access to Data

These amendments allow public access to registration application data on health and safety before EPA makes its registration decision, allowing for public comment on the application (currently, such information is not made public until 30 days after the registration is granted). Restrictions on data disclosure to agents of competitive producers and protection for confidential business information are included to preserve the proprietary rights of the registrant.

TITLE II--Conditional Registration

These amendments restrict conditional registrations to those cases where the necessary data are being developed or have been submitted to support the registration, especially if missing data concern possible chronic effects (e.g. animal cancer studies). Conditional registrations are not to be granted to pesticides undergoing interim administrative review (EPA's Special Review). Minor food and feed uses can receive special consideration by the EPA if no effective alternative pesticide is available.

TITLE III--REREGISTRATION & FEES

These amendments design a process to complete reregistration within approximately nine years. There are various stages of the process outlined in the bill:

First, EPA will identify active ingredients which have not completed Registration Standard review (approximately 480 chemicals), in three separate groups of 150, 150, and 180 (groupings are to avoid bunching all of the workloads at one time). This will be done over a period of four to ten months after enactment of the amendments.

Second, the registrant is to identify data gaps and clearly inadequate studies and agree to furnish these data to EPA (this will indicate the registrant's willingness to participate in reregistration). The new data is to be submitted within four years or less.

Third, the registrant will review his data about a pesticide, reformat certain key studies, and generally resubmit data to support reregistration to EPA. Key studies submitted before January 1, 1982 will be reformatted according to guidelines developed by EPA to facilitate review of the data. The registrant will submit these reformatted studies and other data within one year of EPA's publication of the lists.

Fourth, EPA will review the data within 18 months for the first group (24 and 33 months for the later groups) and decide whether to reregister the product or to require further data. The additional data is to be submitted in four years or less.

Fifth, after submission of all required data, EPA will have to make a reregistration decision within one year.

One-time fees will be charged for reregistration of each active ingredient - $150,000 total: $50,000 when a desire to reregister is first indicated by the identification of missing and clearly inadequate studies, and $100,000 when the reregistration data package is submitted. Fees for non-food pesticides can be reduced, but will not be less than one-half of these amounts. For minor use pesticides, the Administrator can waive or reduce these reregistration fees.

If the registrant which owns the data decides to not pursue reregistration, other persons seeking to use the data can do so if they agree to the FIFRA data compensation provisions.

TITLE IV--Inert Ingredients

These amendments give EPA explicit authority to review inert ingredients of pesticide formulations for possible adverse effects ("inerts" are chemicals added to dilute or deliver the pesticide which have no intended pesticidal activity). EPA will establish a revolving priority list of 50-75 chemicals. For each chemical on the list, EPA would indicate through a data development statement why the data requested are necessary. The name of inert ingredients on the priority list, as well as those considered hazardous by EPA, will be listed on the pesticide label (currently no name of an inert can be required to be listed). As chemicals are reviewed by EPA, they will be replaced on the priority list until all approximately 1200 inert ingredients have been reviewed by EPA (200 inerts are considered to be generally safe).

Costs for developing data for these chemicals will be shared among producers of the chemical who supply the inert ingredients to formulators.

TITLE V--Public Right-to-Know

These amendments require that producers of active ingredients and listed inert ingredients make fact sheets publicly available, summarizing relevant health, safety, and environmental data. Also made available to the public would be a list of locations where pesticides are produced.

TITLE VI--Data Disclosure to the States

These amendments allow the Administrator to disclose registration and other data to States if protection with respect to disclosure will be no less than the protection under FIFRA. EPA would also be required to develop a computerized data retrieval system to facilitate data sharing.

TITLE VII--Cancellation Procedures

These amendments specify procedures for expediting an interim administrative review (Special Review) of a pesticide and cancellation hearings which may follow a review. Although currently available exposure data is to be considered in the decision to initiate a review, reviews are not to be delayed due to lack of exposure data. After a review is initiated, comments may be submitted to EPA, and those submitting comments must disclose all known scientific data concerning the toxicity, exposure, and benefits of the pesticide. Failure to make full disclosure if asked for more information by EPA can jeopardize later rights to ask for a cancellation hearing. Special reviews must be completed in eighteen months; this period can be extended for another year if more time is needed to develop critical information.

If the result of the Special Review is a decision by EPA to cancel a pesticide product, adversely affected parties who participated in the review by submitting comments can ask for a hearing. Prehearing activities, the presentation of evidence, and examination of witnesses is to be completed within certain deadlines, and the hearing is to be completed (including a final decision by the Administrator) in a total of 240 days. This period can be extended for up to 180 days if necessary for a fair and accurate determination of pivotal facts central to the proceeding.

EPA would also be allowed to require label changes for a pesticide through informal rulemaking if necessary to prevent the use of the pesticide from causing unreasonable adverse effects on the environment. This would be allowed only if the rulemaking would not delete the use of the pesticide on a particular crop or site, or would otherwise make the pesticide product unmarketable.

TITLE VIII--False and Invalid Data

These amendments allow EPA to immediately suspend products which were registered with false or invalid data. This section also authorizes EPA to require certain record-keeping information necessary for the effective implementation of FIFRA.

TITLE IX--Inspection of Laboratories

These amendments allow EPA to inspect laboratories conducting tests to support pesticide registrations in order to determine that Good Laboratory Practices (GLP's) are being followed.

TITLE X--Export of Pesticides

These amendments require that label precautions required in the United States be on the label of exported pesticides (unless this violates the laws of the host country). For pesticides not registered in the United States, or cancelled, suspended, or restricted products, prior notification must be given to the importer and government officials in the importing country. Notification must be given before the first shipment of each year. Information about EPA decisions to cancel or reclassify (as restricted use) pesticides must be transmitted to appropriate government officials of foreign countries. This information is to be sent when the decision if made and annually thereafter.

Tolerances for pesticides cancelled, suspended, or withdrawn must be revoked within 60 days of such action to prevent residues of these products from entering the country on imported commodities (unless the concerns were environmental only - such as unique American ecological concerns, or taken for economic reasons - such as prohibitive data development costs).

TITLE XI--Liability

These amendments hold an agricultural producer not liable for damages under FIFRA or any other Federal law for damages caused by pesticides if there is proof that label directions were followed. An agricultural producer will also not be held liable for civil penalties under FIFRA unless a pesticide is applied in a manner inconsistent with its labeling.

TITLE XII--Certification, Training, and Recordkeeping

These amendments require that all commercial applicators receive some training about the safe use of pesticides. In addition to the present requirements for training of applicators to use restricted use compounds, all commercial applicators will be required to have some minimum training. States would oversee the training programs, providing the training through State programs or through the certification of private programs which would meet certain standards.

Commercial applicators will have to take refresher courses at least every four years, and will be required to maintain records of pesticide use for at least two years.

EPA will be required to establish an occupational health program within the pesticide program office, and issue regulations to protect employees who mix, load, apply, or are exposed to pesticides.

TITLE XIII--State Authority

These amendments allow Special Local Needs registrations to expire at the end of the period approved by the State, and requires EPA to establish criteria for disapproving such registrations.

TITLE XIV--Definitions

These amendments define the terms :"use inconsistent with the label," and "to distribute or sell" a pesticide.

TITLE XV--Information Requested

This amendment requires EPA to make efforts to organize and retrieve data from registrants in ways which eliminate or reduce duplicative requests for data, especially confidential data.

TITLE XVI--State Cooperation, Aid, & Training

This amendment authorizes EPA to enter into cooperative agreements to provide 50 percent of the costs of training programs to States and Indian tribes, and authorizes such sums as may be necessary.

TITLE XVII--Scientific Advisory Panel

These amendments expand the Panel from seven to nine members, and conform its termination data to the period for which FIFRA is authorized.

TITLE XVIII--State Primary Enforcement Responsibility

This amendment clarifies the role of the States in investigating misuse complaints, allowing the EPA to act if a State does not promptly initiate investigative action, or does not initiate appropriate enforcement action within ninety days of receiving a referral from the Administrator.

TITLE XIX--Unlawful Acts

These amendments define certain unlawful acts, including violations of recordkeeping requirements, falsifying laboratory testing data, and willfully submitting false data.

TITLE XX--Penalties

These amendments increase current FIFRA civil and criminal penalties for violation of the statute. Generally, they increase the maximum amount a violator can be fined: two times the current penalty for private applicators, and five times the current penalty for commercial applicators, pesticide dealers, and others. Civil penalties for violations of the statute by registrants can be as high as $25,000 for the first offense.

TITLE XXI--Congressional Review

This amendment allows Congress sixty calendar days to review regulations issued under FIFRA during which time the regulation is not effective. The current provision allows sixty legislative days.

TITLE XXII--Review of Regulations

This amendment clarifies the right of affected parties to challenge regulations issued under FIFRA.

TITLE XXIII--Delegation and Cooperation

This amendment clarifies the respective roles of EPA and the Department of Labor regarding workplace exposures to pesticides, and requires that their efforts avoid duplicative and conflicting regulation.

TITLE XXIV--Indemnities

This amendment requires EPA to report to Congress about suspension actions which require indemnification, including an estimate of the cost of indemnification, and the effects such costs would have on EPA's budget if specific additional appropriations are not made. EPA must also request the appropriation of funds for indemnification payments.

TITLE XXV--Authorization for Appropriations

This amendment authorizes appropriations to carry out the provisions of the statute.

TITLE XXVI--Response to Pesticide Detection in Groundwater

These amendments require EPA to take certain actions once pesticide residues are detected in groundwater. Once EPA learns of such residues, an action level of the pesticide must be determined. If residues in groundwater used for human consumption exceeds this action level, the use of the pesticide must be prohibited or the registration amended to reduce the residue level below the action level. If there is a reasonable likelihood that the action level will be exceeded at a point of current human consumption, the Administrator must require registration amendments to ensure the action level will not be exceeded. Where there is potential human consumption and a reasonable likelihood the action levels will be exceeded, the Administrator can require registration amendments taking into consideration the potential points of consumption likely to be used.

REREGISTRATION PROCESS

	Phase 1 EPA	Phase 2 REGISTRANT	Phase 3 REGISTRANT	Phase 4 EPA	Phase 5 EPA
	o Publish list of pesticide active ingredients subject to reregistration o Ask registrants if they intend to seek reregistration	o Tell EPA of intention to seek reregistration o Identify pesticide's missing and "inadequate" data o Agree to fill data gaps under prescribed deadlines	o Summarize and reformat studies to facilitate EPA review o Certify possession of raw data generated by studies o "Flag" adverse data. o Pay first portion of reregistration fee	o Independent review of submissions made by registrants under Phases 2 and 3 o Independent indentification of each outstanding data gap revealed in Phases 2 and 3 o Publication of outstanding data gap for each pesticide active ingredient o Issue requirement, as needed, for registrants to fill each data gap	o Collect final reregistration fee from registrants o Thorough examination of all data submitted in support of pesticide reregistration o Reregister pesticide or take or other appropriate regulatory action
First List (150 active ingredients)	4 Months (4 Months)	3 Months (7 Months)	9 Months (16 Months)	6 Months (22 Months)	12 Months (+12) (3Y,1M - 7Y,1M)
Second List (150 active ingredients)	7 Months (7 Months)	3 Months (10 Months)	9 Months (19 Months)	12 Months (31 Months)	12 Months (+12) (3Y,10M - 7Y,10M)
Final List (Remaining active ingredients)	10 Months (10 Months)	3 Months (13 Months)	9 Months (22 Months)	21 Months (43 Months)	12 Months (+12) (4Y,10M - 8Y,10M)

(3-48 Months for registrants to conduct required studies)

NOTES: (1) Numbers in parentheses = elapsed time

(2) The three lists above do not include approximately 127 pesticide active ingredients for which EPA has already issued Registration Standards indentifying data requirements. Pesticides involving these 127 active ingredients will be subject to the same requirements imposed on the other active ingredients regarding (a) deadlines for submission of data to EPA; (b) payment of second part of the registration fee; and (c) deadlines for EPA review and reregistration.

Hatcher

1. Proposed FIFRA Amendment Concerning Reregistration Fees

Section 302(j)(4) is amended to read as follows:

"(4) Reduction or Waiver of Fees for Minor Use and other Pesticides.-- In the case of an active ingredient of a pesticide which is registered under the Federal Insecticide, Rodenticide, and Fungicide Act . . ., the Adminstrator may upon application, reduce or waive the fee prescribed by this section:

(a) General: In the case of a pesticide which is registered solely for a minor use or where value or volume of use is small, the Administrator may, upon application, reduce or waive the fee prescribed by paragraph (3).

(b) Agriculture and Non-Agriculture Minor Uses:

In the case of a pesticide which is registered solely for an agricultural or non-agricultural minor use, the Administrator may, upon application, reduce or waive the fees prescribed by paragraph (3).

(c) Antimicrobial Uses: In the case of an antimicrobial product, not utilized on a food or feed crop, for which production levels of active ingredients do not exceed 1,000,000 pounds per year, the Administrator may, upon application, reduce or waive the fees prescribed by paragraph (3)."

Section 302(j)(5) is amended by inserting a new paragraph (5), and renumbering subsequent paragraphs:

> "(5) Small Business: the Administrator shall exempt small business from the fees under this section. For the purposes of this section, a small business is an unincorporated business, partnership, or corporation that has an average annual gross revenue for pesticides for the last 3 years prior to reregistration that did not exceed $50 million and has 500 or less employees."

Underlined portions indicate additional language added to the statute.

Section 302(j)(6) is renumbered j(7) and amended to read as follows:

> "(7) Apportionment.--If there are two or more registrants for a pesticide registered under this Act which contain active ingredients listed under subsection (d)(2) who are required to pay the fees prescribed by paragraphs (1) and (2) or paragraph (3) or (4), the fees for such active ingredients shall be apportioned among such registrants according to their market share."

Underlined portions indicate additional language added to the statute.

XIV DEFINITIONS

Section 1401(a)(2) is further amended by adding at the end the following:

(ii) ANTIMICROBIAL. -- The term 'antimicrobial' means a non-agricultural pesticide product not utilized on a food or feed crop, including:

(1) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

(2) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces or in water or air;

(3) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

(4) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces;

(5) fungicides and fungistats intended to inhibit the growth of, or destroy, fungi (including yeasts) on inanimate surfaces; or

(6) commodity preservatives and protectants intended to inhibit the growth of, or destroy, microorganisms.

Section 1401(a) is amended by adding a new paragraph (3) that reads as follows:

(3) ANTIMICROBIAL. -- (1) Section 2(u) is amended by striking out "and" immediately before clause (2), by adding "and" at the end of clause (2), and by adding a new clause (3) as follows: "(3) any substance or mixture of substances intended for use as an antimicrobial".

04/sk03

Roberts

Explanation of the Amendment

The amendment clarifies the Administrator's authority to request information on inert ingredients from the registrant of a pesticide and from the producers of the inert ingredient. It also would allow the Administrator to put the inert ingredient on the label of a pesticide because of the hazard posed by the use of the inert ingredient and clarifies the authority of the Administrator to require the label to accurately reflect the chemical composition of the active ingredient.

INERTS

Strike all from page 37, line 25 through page 49, line 9 and insert the following in lieu thereof:

SEC. 401. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS

(a) AMENDMENT. -- Subsection (c)(2)(A) of section 3 (7 U.S.C. § 136a(c)(2)(A)) is amended by inserting after the words "any additional kind of information under subparagraph (B) of this paragraph" the words "including information regarding an inert ingredient in a pesticide".

(b) AMENDMENT. -- Subsection (c)(2)(B) of section 3 (7 U.S.C. § 136a(c)(2)(B)) is amended by inserting a new clause (vi) which reads as follows:

> "If the Administrator determines that additional data are required for an inert ingredient in a registered pesticide, the Administrator shall request such data from the registrant and, pursuant to other available authority, from producers of the inert ingredient."

SEC. 402. DEFINITION OF INGREDIENT STATEMENT

(a) AMENDMENT. -- Subsection (n) of section 2 (7 U.S.C. § 136(n)) is amended to read as follows:

> "(n) INGREDIENT STATEMENT. --
>
> (1) IN GENERAL. -- The term "ingredient statement" means a statement that contains --
>
> (A) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide;
>
> (B) the name of each inert ingredient in a pesticide which the Administrator determines must appear in the ingredient statement because of the hazard which the Administrator has determined may be posed by the use pattern and concentration level of the inert ingredient in the pesticide;
>
> (C) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic; and

(D) any other information concerning the chemical composition or identity of any active ingredient of the product (for example, information on chemical equivalency) which the Administrator requires to appear on the ingredient statement in order that the nature of the active ingredient is accurately represented."

AMENDMENT OFFERED BY MR. VOLKMER

PROTECTION OF HUMAN LIFE FROM THE ADVERSE EFFECTS OF PESTICIDES

SEC. ___. Section 2(bb) is amended by inserting after the word "man" the following: ", including unborn human beings from the moment of conception,".

AMENDMENT BY MR. BROWN OF CALIFORNIA TO THE COMMITTEE PRINT

SEC._____ "The Administrator shall study and report to Congress within one year on the pesticide volume, use sites, and target insects for non-agricultural pesticides."

PURPOSE AND NEED

Nonagricultural pesticide useage totaled nearly 1.5 billion pounds in 1984. Included in these figures are pesticides applied in the home and garden, around golf courses, around structures, used for wood preserving, and other uses. Of this total, 230 million pounds of herbicides, insecticides, fungicides, and rodenticides were applied around homes, structures, and gardens.

For agricultural pesticide applications, we have been developing Integrated Pest Management (IPM) strategies to control pests. There is growing interest in developing IPM strategies for urban and suburban, nonagricultural pesticide applications, but there is less data available about pesticide use in this area than in the agricultural applications.

Prior to setting up an IPM system, it is essential to obtain detailed information about which pesticides are being used, which application patterns are employed, and which pests are being controlled. Once researchers are able to obtain this information they can tell which types of applications are most prevalent for a given pest and which chemicals are being used for control. From that base, alternative measures for intercepting the pest can be devised and new chemical or non-chemcial approaches can be integrated into an overall pest control strategy.

This study is the first step toward the development of a non-ag IPM program. It will also provide increased emphasis on aggregate use data and use sites for these pesticides at a time when EPA is increasing its scrutiny of them. It will also help develop aggregate exposure data to a variety of pesticides used in homes, offices, restauruants, etc. The study should be able to use data already collected for other EPA reports, including: The National Urban Pesticide Applicator Survey, the report on golf course useage, the report on food establishments, and other reports completed or underway. Additional data may be needed on pesticides sold on the retail level, since the data on this category of pesticides is very soft.

AMENDMENT TO THE COMMITTEE PRINT

by Mr. ~~Bedell~~ Brown

On Page 61, lines 9-16, amend paragraph (1) to read as follows:

"(1) REQUEST FOR HEARING. — Any person, including a person without an economic interest in the pesticide, who is adversely affected by a decision of the Administrator following an interim administrative review may request a hearing within 30 days of such decision. A person may request a hearing, only if that person submitted comments during the interim administrative review proceeding in accordance with section 3(c)(8)(F)."

On Page 64, lines 21-23, amend the last sentence of subparagraph (G) to read as follows:

"The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case and shall have the burden of proof as to that issue."

Brown 6A

ANSWERS TO DATA COMPENSATION QUESTIONS

- **Would a formula for compensation undermine incentives for innovation and research?**

No. The basic manufacturer has patent protection for his product for 17 years, and this period would be extended under legislation pending in the Judiciary Committee.

In addition, the manufacturer receives exclusive use for its data for a 10 year period following the date of the original registration of the pesticide. Only after the expiration of these time periods can the formulator buy use of the data.

In the case of drugs, after expiration of a patent, manufacturers of generic drugs can obtain approval from Food & Drug Administration for sale of a drug that is identical to a previously approved drug without the need to supply data or pay the original manufacturer for use of its data. Nonetheless, research on new drugs continues. Competition encourages, rather than discourages, research and development for new products.

- **When the formulator pays for the data, can the data be exported by the formulator to obtain competitive advantage abroad?**

No. The data cannot be exported since the formulator never sees the data after it pays for its use. FIFRA prohibits disclosure of data to a multinational company. When a formulator pays for use of data, it does not obtain access to the data - the payment of compensation merely enables EPA to refer to the data in granting a registration.

- **It is said that the proposed formula for data compensation would remove incentives for research and innovation in the U.S. Are the basic manufacturers of pesticides primarily domestic companies?**

No. The top 10 agricultural chemical companies in the world accounting for 2/3 of the world pesticide sales consist of 7 foreign companies and 3 U.S. companies. The three largest, accounting for 1/3 of world's sales are Bayer (Mobay) - German; Ciba Geigy - Swiss; and Monsanto - U.S. A substantial amount of research for new chemicals is now being performed abroad and some U.S. companies are even establishing research facilities overseas because of advanced technology available there.

NACA conducted an industry profile study in 1984. The total sales of pesticides in the United States by 31 reporting companies was $4.33 billion of which 84% was from U.S. production and 16% from non-U.S. production. In addition, the total sales abroad of pesticides produced in the United States totalled $1.5 billion. The 31 reporting companies include the 10 largest world producers as described above and also the two largest producers of pesticides included in the Pesticide Producers Association.

- **Why do we need a formula for compensation -- would not accelerating the arbitration process provide real assistance to the formulator?**

No. It does not resolve the issue of cost and uncertainty. The only decided arbitration award required payment of over 5 times the cost of developing the data. If it should become a precedent it would discourage competition and effectively provide an "exclusive use" franchise to the basic manufacturer. If it should not be a precedent, one would never know the ultimate cost until arbitration is concluded. A formula for data compensation would reduce the number of arbitration cases and provide the certainty needed to encourage competition. The cost of arbitration is substantial and constitutes a financial burden on the parties.

- **Do the producers of generic pesticides provide real benefits to the U.S. farmer?**

Yes, when the patent expires on a pesticide and generic pesticides are made available to the U.S. farmer, the price drops. For example, in the case of atrazine (an important corn herbicide) before the patent expired it was selling at $2.95/lb. After the patent expired and generics came onto the market, its cost dropped to $2.40/lb.

Basic manufacturers of pesticides often maintain the price to the U.S. farmer at a higher price than it sells the same product to customers overseas. For example, Roundup (a major herbicide) sells in the United States at $66-$72/gallon. Overseas, the U.S. manufactured product sells at $40-$44/gallon. Malathion sells in the United States at $1.50-$1.60/lb. but the exported product sells overseas at $.82-$1.00/lb. The price of parathion in the U.S. is $1.55/lb, while the product exported to Nicaragua sells for$.92/lb.

- **What is the tax treatment of research and development expenditures? Can pesticide manufacturers recover part of their cost for R & D through the tax laws?**

Research and development ("R&D") expenditures are the most favored business cost under the Internal Revenue Code. The policy has been to provide a specific benefit to technological innovation and optimize such activity. As a result, both favorable deductions and credits are allowed against the Federal Income Tax.

For book accounting purposes, R&D is generally required to be capitalized and amortized over the life of the resulting product. However, Section 174 of the Internal Revenue Code generally permits taxpayers to elect to deduct qualified R&D expenses currently, regardless of how they are treated for book or other accounting purposes. Alternatively, taxpayers may elect to amortize such expenditures over 5 years or longer if desired or the useful life of the resulting property. The ability to currently expense R&D is obviously a significant tax incentive.

The Internal Revenue Code also provides a 25 percent tax credit for qualified increases in research expenditures in excess of base period expenditures. The research credit applies to amounts paid or incurred after June 30, 1981, and before January 1, 1986, and would be extended under both the House and Senate tax bills.

Amendment to the Amendment of
Mr. Brown to Section 3(C)(1)(D)(ii)

Section 3(C)(1)(D)(ii) is amended by inserting in the initial clause after "if the applicant has made an offer to compensate the original data submitter" the words "for a share of the cost of such data".

Explanation: The amendment would make clear that an applicant for registration of a pesticide or a new use who wishes to make use of data previously submitted to EPA, must pay compensation to the original data submitter based on an appropriate share of the cost of developing the data. The exact amount to be paid and the share of the cost for which the applicant would be responsible would not be defined but left to mutual agreement of the parties, or failing that, to arbitration.

Amendment by Mr. Brown to
Section 3(C)(1)(D)

Section 3(C)(1)(D) is amended by adding at the end thereof a new clause as follows:

"(iv) notwithstanding any other provision of law, with respect to health and safety data submitted on and after the date of enactment of the FIFRA Amendments of 1986 to support an application for registration, experimental use permit, an amendment adding a new use to an existing registration, to support or maintain in effect an existing registration or for re-registration, the Administrator shall pay the applicant the sum of $____ on the receipt of any such data, and the data, thereafter, shall be in the public domain available for disclosure upon request;"

A

Amendment to Subcommittee Print (Title XII)

Offered by Mr. Morrison

Page 105, line 9 strike out "The" and insert in lieu thereof "If appropriate and necessary, the".

Amendment to Subcommittee Print (FIFRA Title XIX)

Offered by Mr. Morrison

Page 112, strike "or" on line 13 and add "and" and strike lines 14 through 16.

FIFRA24

AMENDMENT TO SUBCOMMITTEE PRINT
OFFERED BY MR. PANETTA

Page 140, insert before line 1 the following:

TITLE XXIX--MISCELLANEOUS

SEC. 2901. IR4 PROGRAM.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987 through 1990 to maintain current services by the Secretary of Agriculture under section 2(c)(2)(B) of the Act of August 4, 1965 (7 U.S.C. 450i(c)(2)(B)) for the inter-regional project number 4 program (commonly referred to as the ``IR4 program'').

Redesignate title XXIX as title XXX and redesignate section 2901 as section 3001. Amend the table of contents.

⑩

STATEMENT OF
CONGRESSMAN LEON E. PANETTA
before the
HOUSE AGRICULTURE SUBCOMMITTEE ON
DEPT. OPERATIONS, RESEARCH, AND FOREIGN AGRICULTURE

MAY 14, 1986

Mr. Chairman, I am offering an amendment today that recognizes the need for continued funding for the Interregional Project #4, commonly known as the IR-4 Program.

The IR Program was established to aid growers of small acreage crops around the country in controlling their pest problems. The IR-4 Program acts as a coordinating mechanism between the USDA, federal regulatory agencies, and university research programs to develop the technical and research information needed to register effective pesticides for use on so-called minor crops. This program is coordinated through a headquarters staff and four regional laboratories.

The IR-4 Program is a cooperative USDA-Agricultural Experiment Station program and is supported primarily with P.L. 89-106 Special Research Grant funds. Continuation of these funds is not included in the President's fiscal year 1987 budget request.

For the past ten years, more than half of the new residue tolerances issued by the EPA Office of Pesticide Programs have been the result of IR-4 petitions. This means authorizing between 30 and 50 new chemical/crop combinations each year. As EPA accelerates its data call-in registration standard programs under FIFRA, the need for an IR-4 program will grow. Many growers are concerned that there may be few economic incentives to reregister older and perhaps lower-use volume pesticides - which may mean that some minor use crops will have no approved pesticide to use. We need to continue the IR-4 Program - which in the past has been very beneficial to growers in developing information and obtaining clearances for minor uses of pesticides and animal drugs.

This amendment would authorize funding for this important program through FY90 at levels that would maintain current services. I recognize the budget constraints that we face. However, it is clear that we must continue programs that will facilitate the registration of pesticides used on specialty crops. I would therefore urge the Subcommittee to adopt this amendment to continue funding authorizations for this important program.

FIFRA Amendment
Offered by Mr. Evans of Iowa

Public Right to Know

The Administrator shall contract with the National Academy of Sciences to conduct a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural commodities. Such risk rating shall include, but not be limited to, methods of application, chronic and acute toxicity, and anticipated losses to and persistence in the environment. In conducting the study, the National Academy of Sciences shall seek input from recognized public and private sector scientists, and provide opportunity for public comment on the preliminary findings relating to the development of a risk rating. The National Academy of Sciences shall deliver the study to the Adminitrator and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate within 18 months of enactment of this section.

AMENDMENT TO SUBCOMMITTEE PRINT - VOLKMER

Page 94, line 17, insert "restricted use" after "any"

Page 94, line 24, insert "restricted use" after "apply".

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, May 15, 1986

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 1:35 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the Department of Agriculture's proposed fiscal sanctions against states under the Food Stamp Program

The following Members were present:

Mr.	Panetta	Mr.	Emerson	Mr.	
Mr.	Glickman	Mr.		Mr.	
Mr.	Olin	Mr.		Mr.	
Mr.	Foley	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:

John Hogan, Minority Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Jim Rotherham, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant
Fred Clark, Staff Assistant

Witnesses:

1. Hon. John Bode, Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Robert Leard, Administrator, Food and Nutrition Service, U.S. Department of Agriculture

   Mr. Ron Hill, Acting Assistant General Counsel, U.S. Department of Agriculture

2. Hon. Daniel J. Evans, United States Senator from Washington

3. Mr. Charles M. Atkins, Commissioner, Massachusetts Department of Public Welfare, Boston, Massachusetts

4. Mr. Joseph Goldberg, University Counsel, University of New Mexico, Albuquerque, New Mexico

5. Mr. Robert Greenstein, Director, Center for Budget and Policy Priorities, Washington, D.C.

Statement for the Record:

1. Letter from National Governors' Association, 444 N. Capitol Street, Washington, D.C. 20001-1572

Thursday, May 15, 1986
Subcommittee on Domestic Marketing,
  Consumer Relations, and Nutrition
Public Hearing
Review USDA's proposed fiscal
  sanctions against states under
  the Food Stamp Program

Chairman Panetta called the meeting to order for the purpose of reviewing USDA's proposed fiscal sanctions against states under the Food Stamp Program. Mr. Panetta made an opening statement on the need to conduct the hearing. Mr. Emerson, the Ranking Minority Member of the Subcommittee, also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements on the above-cited subject. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

One special introduction was made: Mr. Foley introduced Senator Evans. Due to the conflict of legislation on the floor, Messrs. Olin and Glickman assisted in chairing responsibilities.

At 3:40 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 21, 1986

~~(Sub)~~Committee: Full

Business Meeting

met at 10:15 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 4613, the Futures Trading Act of 1986

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Bedell
Mr. English
Mr. Stenholm
Mr. Volkmer
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr.
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Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Stangeland
Mr. Roberts
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Bob Cashdollar, Subcommittee Staff Director
Susan Adkins, Minority Consultant
Jim Johnson, Staff Assistant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present to respond to questions:

1. Ms. Jean Harmann, Office of Legislative Counsel, U.S. House of Representatives
2. Hon. Susan Phillips, Chairman, Commodity Futures Trading Commission, Washington, D.C.

Wednesday, May 21, 1986
Full Committee
Business Meeting
Futures Trading Act of 1986
H.R. 4613

Action Taken:

-- Without objection English amendment on state jurisdiction withdrawn.

Chairman de la Garza called the meeting to order to continue consideration of H.R. 4613, the Futures Trading Act of 1986. He advised that at the Committee's meeting on May 7, an amendment offered by Mr. English on state jurisdiction had been unresolved, and that staff had been asked to work with Mr. English, Mr. Madigan, CFTC, and other interested parties to work out the language. He advised that agreement had not been reached and the meeting was called to resolve the issue. A copy of the pending English amendment is attached.

Mr. English was recognized to explain the provisions and purpose of his amendment. Following his presentation he withdrew the amendment and there was no objection.

The Committee continued to discuss the issue based on a departmental report (copy attached) submitted by the Commodity Futures Trading Commission.

Mr. English advised that he had withdrawn his amendment, and moved that the Committee adjourn; whereupon at 10:35 a.m. the meeting was adjourned, subject to the call of the Chair. During the proceedings, Mr. Franklin, a member of the Committee who had been in the hospital, was welcomed back to the Committee.

Glenda Temple
Glenda Temple

AMENDMENT BY MR. [illegible]

TO H.R. [illegible]

AMENDMENT PERMITTING STATE JURISDICTION OVER LEVERAGE

~~SEC. (1).~~

~~Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by deleting the following language from the grant of exclusive jurisdiction to the Commission in the first proviso to the third sentence: ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act".~~

defeated

SEC. (2).

Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by --

(1) striking out at the end of subsection (e)(2)(B) "or";

(2) striking out in subsection (e)(2)(C) "or 19"; and

(3) adding, following the words "this Act" in subsection (e)(2)(C), the following new subsection (e)(2)(D):

", or (D) that is subject to regulation by the Commission under section 19 of this Act".

COMMODITY FUTURES TRADING COMMISSION
WASHINGTON, D. C. 20581

OFFICE OF
THE CHAIRMAN

May 19, 1986

E. (Kika) de la Garza, Chairman
Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, D.C. 20515

The Honorable Edward R. Madigan
Committee on Agriculture
U.S. House of Representatives
2312 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman de la Garza and Congressman Madigan:

As you may recall, there was some confusion over the effect of Section 2 of the "Amendment Permitting State Jurisdiction Over Leverage", introduced by Congressman English and which was adopted by the Committee during its mark-up on May 8, 1986 of H.R. 4613, a bill to reauthorize appropriations to carry out the Commodity Exchange Act. You may also recall that Kenneth Raisler, our General Counsel, was asked to work with Mr. Fraas, Counsel for the Committee, and Congressmen English and Madigan to redraft the Amendment if necessary to assure that it reflected the Committee's intent. See Committee Transcript, pp. 121-24, 163-64.

Since that time, Congressman Coleman has asked Mr. Raisler for his legal analysis of the Amendment as well as of the two Alternatives to it which have been proferred by Congressman English. Attached are copies of letters dated May 15 and 19, 1986, responding to Congressman Coleman's request, in which Mr. Raisler expresses the view that neither the Amendment nor the Alternatives accurately reflect the Committee's intent as summarized by Mr. Fraas at the conclusion of the mark-up.

In keeping with the Committee's request, attached also and marked "CFTC-OGC Alternative" is a proposed redraft of the Amendment. The proposed language is written to effectuate the Committee's intent, and the Commission has not reviewed and does not take any position on it. This proposal was shared with Mr. Fraas and other members of the Committee staff last week.

E. (Kika) de la Garza
The Honorable Edward R. Madigan
Page 2

I hope that you will find the attached information useful as the Committee prepares to file its report on H.R. 4613.

Sincerely,

Susan M. Phillips

Susan M. Phillips
Chairman

Attachments

cc: All Members of the Agriculture Committee

COMMODITY FUTURES TRADING COMMISSION
2033 K STREET, N.W., WASHINGTON, D.C. 20581

OFFICE OF
THE GENERAL COUNSEL

May 19, 1986

The Honorable E. Thomas Coleman
Committee on Agriculture
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Coleman:

You have asked me for my legal analysis of the two statutory Alternatives which have been proferred by Congressman English as substitutes for Section 2 of his "Amendment Permitting State Jurisdiction Over Leverage" ("the Amendment") which the Committee adopted at its mark-up of H.R. 4613 on May 8, 1986. A copy of the Amendment and the Alternatives are attached.

You will recall that following the Committee's vote accepting the Amendment, Mr. Fraas, Counsel for the Committee, stated that there was some concern that there may be a need to redraft the Amendment to comply with the apparent intent of the Committee in adopting it. Mr. Fraas indicated his understanding that the Amendment was intended to provide the states with the same enforcement power, including anti-fraud power, that exists with respect to off-exchange transactions, but that it did not mean to provide the 50 states with registration authority or other regulatory power over leverage transactions. After a colloquy with Congressman English, Mr. Fraas and myself were directed to work with Congressmen English and Madigan to redraft the Amendment and, if necessary, to bring it before the Committee. See Committee Transcript, pp. 163-64.

Since the Amendment as adopted would permit the application of any Federal or State regulatory statute, beyond simply state enforcement statutes, to leverage transactions regulated by the Commission, a redraft of the Amendment is necessary in order to reflect the intent of the Committee as summarized by Mr. Fraas. However, after analyzing the Alternatives proferred by Congressman English, I do not believe that either of them reflect the Committee's intent because neither is limited to the application of state enforcement authority.

Alternative No. 1 does make clear that no other Federal law may be applied to leverage transactions regulated by the Commission. With respect to state law, however, Alternative No. 1 is in substance no different than the Amendment. Alternative No. 1 would expressly permit the application of any state statute, rule or regulation to leverage. This could, of course, include state licensing or registration laws. Indeed, Alternative No. 1 could also permit the application of a state's law effectively to ban leverage contract sales in that state.

Alternative No. 2 is the same as Alternative No. 1 except that it provides that no state statute, rule or regulation applied to leverage shall "conflict with" Section 19 of the Commodity Exchange Act or any rule or regulation adopted by the Commission. Alternative No. 2 also poses substantial concerns with respect to the federal regulation of leverage contracts. First, Alternative No. 2 raises the prospect of protracted litigation over whether a particular state law is or is not in "conflict with" Commission regulation. In such litigation the Commission and the states could be in the unseemly position of being on opposite sides, since the Commission might very well believe that the state law was in conflict with the federal scheme and would be obliged to so inform the court. Alternative No. 2 could thus result in needless Federal/State confrontation and could undo the substantial progress which has been made in recent years to foster and improve State and Commission relations and cooperative law enforcement.

Secondly, even if everyone could agree on which state laws do and do not "conflict with" Commission rules, Alternative No. 2 poses no obstacle whatsoever to the states imposing capital, licensing, auditing or other regulatory standards upon leverage firms that are in compliance with Commission regulations. The 50 states would be free to impose regulatory requirements, each different from the other. Thus, leverage firms would have to comply with both the Commission's regulations and various state regulatory provisions.

For the foregoing reasons, I do not believe that either Alternatives 1 or 2 accurately reflect the Committee's intent in adopting the Amendment. If you have any additional questions, please let me know.

Very truly yours,

Kenneth M. Raisler
General Counsel

Attachments

(5) English

AMENDMENT BY MR. ENGLISH

TO H.R. [illegible]

AMENDMENT PERMITTING STATE JURISDICTION OVER LEVERAGE

SEC. (1). Defeated

~~Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by deleting the following language from the grant of exclusive jurisdiction to the Commission in the first proviso to the third sentence: ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act".~~

SEC. (2). Accepted

Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by --

(1) striking out at the end of subsection (e)(2)(B) "or";

(2) striking out in subsection (e)(2)(C) "or 19"; and

(3) adding, following the words "this Act" in subsection (e)(2)(C), the following new subsection (e)(2)(D):

", or (D) that is subject to regulation by the Commission under section 19 of this Act".

--

Alternative No. 1

"or (4) the application of any State statute, including any rule or regulation thereunder, to any transaction that is subject to regula- by the Commission under Section 19 of the Act"

Alternative No. 2

(Same language as No. 1 with proviso:)

"Provided that no such State statute, rule, or regulation, shall conflict with Section 19 of this Act or any rule or regulation adopted by the Commission thereunder"

COMMODITY FUTURES TRADING COMMISSION
2033 K STREET, N.W., WASHINGTON, D.C. 20581

OFFICE OF
THE GENERAL COUNSEL

May 15, 1986

The Honorable E. Thomas Coleman
Committee on Agriculture
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Coleman:

You have asked for my legal analysis of the "Amendment Permitting State Jurisdiction Over Leverage" introduced by Congressman English during the Committee's mark-up on March 8, 1986 of H.R. 4613, a bill to reauthorize appropriations to carry out the Commodity Exchange Act. A copy of the Amendment is attached.

You will recall that the Committee voted to reject Section 1 of the Amendment but did accept Section 2. During the course of the Committee's deliberations prior to its vote, I had colloquies with several members of the Committee concerning the legal impact of the Amendment. My initial assessment of Section 1 was that by eliminating the Commission's exclusive jurisdiction over leverage transactions, the SEC and the states could regulate, indeed even ban, leverage transactions. In contrast, my initial assessment of Section 2 was that it would not permit the application of Federal or State regulatory statutes, but it would permit the application of state enforcement statutes, such as anti-fraud legislation. *See* Committee Transcript, pp. 121-24.

Upon further scrutiny, however, I had some concern that my initial assessment was incorrect and that I therefore may have misinformed the Committee. As a result, following the Committee's vote, Mr. Praas, Counsel for the Committee, indicated that in further discussions with me, there was some concern that there may be a need to redraft the Amendment to comply with the apparent intent of the Committee in adopting Section 2. Mr. Praas indicated his understanding that Section 2 was intended to provide the states the same enforcement power, including anti-fraud power, that exists with respect to off-exchange transactions, but that it did not mean to provide the 50 states with registration authority or other regulatory power over leverage transactions. *See* Committee Transcript pp. 163-64.

Upon further consideration, I am now convinced that my later assessment of Section 2 of the Amendment was correct and that Section 2 does in fact allow the application of state regulatory statutes to leverage transactions subject to regulation by the Commission. Section 2 of the Amendment would amend Section 12(e)(2) of the Act. Under current law, Section 12(e)(2) permits the application of any Federal or State statute to certain commodity transactions, but not leverage transactions subject to Commission regulation under Section 19. Section 2 of the Amendment would amend Section 12(e) expressly to permit the application of any of these statutes to leverage transactions.

Section 2 of the Amendment would therefore effectively accomplish that which the Committee rejected in defeating Section 1 of the Amendment. The effect of Section 2 is to permit the application of any Federal or state statute, beyond simply state enforcement statutes, to leverage transactions regulated by the Commission. Thus, Section 2 would permit application of regulatory statutes like Federal securities or state licensing or registration laws to leverage. I trust this information will prove helpful. Please let me know if you have any further questions.

Very truly yours,

Kenneth M. Raisler
General Counsel

Attachment

[illegible]

BY H.R. 4613

AMENDMENT PERMITTING STATE JURISDICTION OVER LEVERAGE

SEC. (1). Defeated

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SEC. (2). Accepted

Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by --

(1) striking out at the end of subsection (e)(2)(B) "or";

(2) striking out in subsection (e)(2)(C) "or 19"; and

(3) adding, following the words "this Act" in subsection (e)(2)(C), the following new subsection (e)(2)(D):

", or (D) that is subject to regulation by the Commission under section 19 of this Act".

CFTC-OGC Alternative

"or (4) the application of any State enforcement statute, including any rule or regulation thereunder, to any transaction that is subject to regulation by the Commission under Section 19 of this Act. Such State enforcement statute, rule or regulation may proscribe such acts or practices as fraud, deceit, misrepresentation, the omission to state material facts, the issuance of false reports or statements and the churning of accounts: Provided that no such State statute, rule or regulation shall impose any registration, licensing, qualification, financial, recordkeeping, reporting or other form of regulatory requirement on any person engaged in the business of entering into any such transaction."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 5, 1986

(~~Sub~~) Committee: Full

Business Meeting

met at 9:50 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 2436, National Nutrition Monitoring and Related Research Act of 1986, and H.R. 2482, Federal Insecticide, Fungicie, and Rodenticide Act Amendments of 1986.

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Brown
Mr. Rose
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Hatcher
Mr. Tallon
Mr. Staggers

Mr. Evans (Ill.)
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Hopkins
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
Charles Rawls, Associate Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Jim Rotherham, Subcommittee Staff Director
Tim Galvin, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Gary Mitchell, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant
Debbie Dawson, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present to respond to questions:

1. Mr. Dave Meade, Office of Legislative Counsel, U.S. House of Representatives

2. Ms. Susie Harris, Deputy Assistant Secretary for Food and Consumer Services, USDA

3. Dr. John Moore, Assistant Administrator for Pesticides and Toxic Substances, EPA

Thursday, June 5, 1986
Full Committee
Business Meeting
H.R. 2436, National Nutrition
  Monitoring and Related Research Act
H.R. 2482, Federal Insecticide,
  Fungicide, and Rodenticide Act
  Amendments

Action Taken:

-- Without objection Brown substitute amendment to H.R. 2436 approved for markup vehicle.

-- By voice vote Emerson amendment clarifying provisions of Title III agreed to.

-- By voice vote H.R. 2436, as amended, ordered reported to the House in the presence of a quorum.

-- Without objection Emerson report language to accompany H.R. 2436 adopted.

-- By voice vote Bedell technical and clarifying amendments to H.R. 2482 approved.

Chairman de la Garza called the meeting to order for the purpose of considering H.R. 2436, the National Nutrition Monitoring and Related Research Act, and H.R. 2482, the Federal Insecticide, Fungicie, and Rodenticide Act Amendments. The Chairman advised that pursuant to previous notice a one-third quorum was present and the Committee could begin consideration of the legislation before it.

Mr. Panetta, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, was recognized to explain the provisions of H.R. 2436 (copy of bill attached). Without objection the Subcommittees on Domestic Marketing, Consumer Relations, and Nutrition and Department Operations, Research, and Foreign Agriculture were discharged from further consideration of the bill. After opening comments, Mr. Panetta yielded to Mr. Brown to explain the action of the Science and Technology Committee on the bill.

Mr. Brown offered the attached language (summary also attached) as a substitute for the bill as introduced and there was no objection. Discussion occurred on the legislation.

Mr. Emerson offered the attached amendment to clarify that any dietary guidance issued by a federal agency will be submitted to the Secretaries of Agriculture and Health and Human Services for review. Discussion occurred and by a voice vote the proposal was agreed to.

Thursday, June 5, 1986
Full Committee
Business Meeting
H.R. 2436, National Nutrition
Monitoring and Related Research Act
H.R. 2482, Federal Insecticide,
Fungicide, and Rodenticide Act
Amendments

Mr. Panetta moved that H.R. 2436, as amended, be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was approved in the presence of a quorum (22 Members present and voting). Staff was given permission to make any necessary clerical and technical changes.

Mr. Emerson offered the attached report language to accompany H.R. 2436. The language would require the Secretaries of Agriculture and Health and Human Services to enter into a contract with a scientific body to provide a report on the dietary, nutritional and health related status of the population and the nutritional quality of the food supply, as well as define the term "federal agency". Without objection the language was agreed to.

Mr. Bedell, Chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, was recognized to explain the actions of the Subcommittee on H.R. 2482 (copy of Committee Print and explanation attached). Mr. Roberts, the Ranking Minority Member of the Subcommittee, was recognized for comments.

Counsel Rawls was asked to explain the provisions of the Committee Print. Dr. Moore of the Environmental Protection Agency was asked to present the agency's views on the legislation.

Mr. Bedell offered the attached technical and clarifying amendments to H.R. 2482. Discussion occurred and by a voice vote the amendments were agreed to.

Mr. Combest raised a question concerning section 12(f) of the Committee Print and the livestock operator exemption. He was asked to work with Mr. Bedell, Mr. Roberts and staff to see if an amendment would be needed. Mr. Huckaby raised concerns about the data compenation provisions and he was also asked to work with Mr. Bedell, Mr. Roberts, Mr. Brown and staff to see if his concerns could be met.

During the proceedings recesses were taken at 10:05 and 11:15 a.m. to enable Members to respond to recorded votes on the House floor. At 11:55 a.m. the meeting was adjourned to reconvene at 2:00 p.m. on Wednesday, June 11, to consider additional amendments to the Federal Insecticide, Fungicide, and Rodenticide Act. Staff was asked to incorporate the Bedell amendments into the Committee Print so that the Committee would have all of the language before it at its next meeting.

Glenda Temple

Glenda Temple

99TH CONGRESS
1ST SESSION

H. R. 2436

To establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1985

Mr. MACKAY (for himself, Mr. BROWN of California, Mr. WALGREN, Mr. TOWNS, Mr. BARNES, Mr. ACKERMAN, Mr. EDGAR, Mr. DOWNEY of New York, Mrs. BURTON of California, Mr. LELAND, Ms. OAKAR, Mr. WIRTH, Mr. OWENS, Mr. FUQUA, Mr. MINETA, Mr. DYMALLY, Mrs. SCHROEDER, Mr. NELSON of Florida, Mr. SCHEUER, Mr. MOODY, Mr. COOPER, Mr. MOAKLEY, Mr. YOUNG of Missouri, Mr. GILMAN, Mr. BOEHLERT, Mr. WISE, Ms. MIKULSKI, Mr. NEAL, Mr. WEAVER, Mr. PENNY, and Mr. CARPER) introduced the following bill; which was referred jointly to the Committees on Agriculture and Science and Technology

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A BILL

To establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1985".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) a national nutrition monitoring system is a basic tool necessary to examine the linkages between food consumption patterns, nutritional status, and health status;

(2) a national nutrition monitoring system is essential to insure the nutritional quality of the national food supply, to insure that the nutritional needs of the public are achieved, and to insure that appropriate data bases are maintained to guide the expenditure of public funds for nutrition research and for development, education, and intervention programs designed to maintain and enhance the nutritional status of the population;

(3) scientific methods and technologies to assess nutritional and dietary status are costly, imprecise, and lack standardization;

(4) Federal efforts to collect, analyze, interpret, and disseminate dietary and nutritional status data are untimely, give inadequate attention to assessing high-risk groups and geographic areas, and lack resources for the continuous collection, processing, and analysis

of dietary, nutritional, and related health status information and for the monitoring of general health trends and their relationship to food practices and supplies;

(5) nutrition monitoring and related research lacks a central Federal focus for the development, coordination, and implementation of a strategic and timely national nutrition monitoring program; and

(6) no effective means currently exist to assist State and local governments in obtaining dietary and nutritional status data and in developing related data bases and networks, or to bring together public and private interests to identify national nutrition monitoring priorities and issues, and to promote progress in a cooperative forum.

PURPOSE

SEC. 3. It is the purpose of this Act—

(1) to make more effective use of Federal and State expenditures for nutrition monitoring and to improve the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) to establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program and thereby establish a scientific basis for the maintenance and improvement of the nutritional status of the United States population

and the nutritional quality of the United States food supply;

(3) to establish and implement a comprehensive National Nutrition Monitoring and Related Research Plan to assess on a continuing basis the dietary and nutritional status and trends of the United States population, the state-of-the-art, future monitoring and related research priorities, and the relevant policy implications of the findings;

(4) to establish and improve national nutritional and health status data and related data bases and networks, and to support research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) to establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) to establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health professionals, and the public in support of the objectives described in paragraphs (1), (2), (3), (4), and (5); and

(7) to provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such objectives.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors which bear upon the contribution that nutrition makes to the health of the United States population, including (A) dietary, nutritional, and health status measurements, (B) food consumption measurements, (C) food composition measurements and nutrient data banks, (D) dietary knowledge and attitude measurements, and (E) food supply and demand determinations;

(2) the terms "National Nutrition Monitoring and Related Research Program" and "coordinated program" mean the coordinated program established by section 101(a);

(3) the terms "Intergovernment Science Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the terms "National Nutrition Monitoring and Related Research Plan" and "comprehensive plan"

mean the comprehensive plan established by section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to the Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, pursuant to section 1428 of Public Law 95-113;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established by section 201;

(7) the term "Secretary", except where the context otherwise requires, means the Secretary of Health and Human Services; and

(8) the term "local government" means a local general unit of government or local educational unit.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is hereby established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purpose of this Act.

(b) The Secretary of Health and Human Services shall be responsible for the implementation of the coordinated program.

(c) To facilitate the management and implementation of the coordinated program, there is hereby established an Intergovernment Science Board for Nutrition Monitoring and Related Research, of which the Assistant Secretary for Health in the Department of Health and Human Services, the Assistant Secretary for Science and Education in the Department of Agriculture, and the Assistant Surgeon General for Research and Development in the Department of the Army shall be joint chairpersons. The remaining membership of the Board shall consist of not more than 7 additional representatives of Federal agencies, as deemed appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months.

(d) To establish a central focus and coordinator for the Nutrition Monitoring and Related Research Program, the Secretary shall appoint, with the advice and consent of the Secretary of Agriculture, an Administrator of Nutrition Monitoring and Related Research in the Department of Health and Human Services. The Administrator—

(1) shall be an individual who is eminent in the field of nutrition monitoring and related areas, and

shall be selected on the basis of his or her established record of expertise and distinguished service;

(2) shall administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, shall serve as the focal point for the coordinated program, and shall serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council; and

(3) shall receive basic pay at not less than the rate provided for grade GS–16 in the General Schedule under section 5332 of title 5, United States Code, and not more than the rate provided for grade GS-18 in such Schedule.

FUNCTIONS OF THE SECRETARY

SEC. 102. (a) The Secretary, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals;

(2) update and integrate the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System into the coordinated program;

(3) assure the timely implementation of the coordinated program and the comprehensive plan established by section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be carried out and administered by the National Science Foundation in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) which will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, to be carried out and administered by the Centers for Disease Control in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction between Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses and to publish every two years, or more frequently if appropriate, a report on the dietary, nutritional and health-related status of the population of the United States and the nutritional quality of the national food supply, with recommendations for dietary guidance and effective communication of such guidance to the public; and

(9)(A) foster cost recovery management techniques, and (B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and utilize the proceeds of such charges and fees for purposes of the program (except that no such charge or fee imposed upon an educational or other nonprofit organization shall exceed the actual costs incurred by the program in providing the publication or publications involved).

(b) The Secretary shall submit to the President and the Congress by January 15 of each year an annual report which shall—

(1) evaluate the progress of the program under this Act;

(2) summarize the results of such program components as are developed under section 103;

(3) analyze the dietary, nutritional and related health status of the United States population, the nutritional quality of the national food supply, the relevant policy implications of the findings, and future nutrition monitoring and related research priorities;

(4) include in full the annual report of the Council as specified in section 202; and

(5) include an executive summary of the report most recently published by the scientific body specified in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PLAN

SEC. 103. (a) The Secretary, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed—

(1) to assess, collate, analyze, and report on a continuous basis the dietary and nutritional status and trends of the United States population (dealing with

such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, Blacks, Hispanics, and other minorities as appropriate), the state-of-the-art, future monitoring and related research priorities, and relevant policy implications of the findings;

(2) to assess, analyze, and report on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when resources were not sufficient to provide an adequate diet;

(3) to sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) to develop and update a national dietary and nutritional status data bank, a nutrient data bank, and other data resource requirements;

(5) to assist State and local agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) to focus the activities of the Federal agencies.

(b) The comprehensive plan shall, as a minimum, include programs to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide by 1990 for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the United States population designed to permit statistically reliable estimates of high-risk groups and geopolitical and geographic areas and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in the survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of NHANES and NFCS data sets collected prior to 1984 within one year after the date of the enactment of this Act;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring,

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related data bases and networks to promote the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from

non-Federal sources to promote the development of a national nutritional status network;

(11) produce an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, outcomes, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan which facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health professionals, and which facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within twelve months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1) by means of publication in the Federal Register;

(3) shall be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President and the Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(e) Nothing in this section shall be construed as modifying, or as authorizing the Secretary or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(3), and—

(1) shall be carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) shall be managed in accord with paragraphs (12) through (14) of section 103(b);

(3) shall be carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) shall be funded by appropriations which shall be made to such agencies (and to the Secretary) pursuant to section 106 for each fiscal year of the program, subject to annual authorizations hereafter enacted, and which shall to the maximum extent feasible be made pursuant to each such authorization for the fiscal year involved and the ensuing two fiscal years.

The Congress through its appropriate authorizing committees shall exercise continuing oversight over the coordinated program, taking into account the Secretary's annual reports and such other information and data as may be developed.

(b) Nothing in this title shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Secretary shall provide for and coordinate the conduct, by the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, and other suitable Federal agencies, of such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purpose and objectives of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. (a) For the purpose of establishing and carrying out the competitive grants program under section 102(a)(4), there is authorized to be appropriated to the National Science Foundation, for the fiscal year in which the comprehensive plan is submitted in final form under section

103(d)(3) and for each of the nine succeeding fiscal years, the sum of $2,000,000, to remain available until expended.

(b) For the purpose of establishing and carrying out the grants program under section 102(a)(5), there is authorized to be appropriated to the Centers for Disease Control, for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for each of the nine succeeding fiscal years, the sum of $1,000,000, to remain available until expended.

(c) Other authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretary and by each of the agencies which are allocated responsibilities under the coordinated program pursuant to section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

(d) Nothing in this title is intended either (1) to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds which would be authorized or expended for the same purposes in the absence of the coordinated program, or (2) to limit the authority of any of the participating agencies to request and receive funds for those purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) There is hereby established a Council to assist in carrying out the purpose of this Act, to provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and to serve in an advisory capacity to the Secretary.

(2) The Council shall consist of fifteen voting members, of whom—

(A) seven members shall be appointed by the President; and

(B) eight members shall be appointed by the Congress—two by the Speaker of the House of Representatives, two by the minority leader of the House of Representatives, two by the President pro tempore of the Senate, and two by the minority leader of the Senate.

(3) The Council shall also include three ex officio nonvoting members designated from and by the Board for terms not to exceed five years.

(b) The persons appointed to the Council—

(1) shall be eminent in the fields of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, and economics; and

(2) shall be selected solely on the basis of established records of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) two members who are directors of nutrition research units which are primarily supported by Federal funds, and who have specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and who has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and who has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership shall at all times have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson and Vice Chairperson of the Council shall be elected from and by the Council membership. The terms of office of the Chairperson and the Vice Chairperson shall not exceed five years. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence. In case a vacancy occurs in the Chairpersonship or Vice Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The terms of office of the voting members of the Council shall be as follows:

(1) Of the seven members appointed by the President and serving at any time, one shall be appointed for a term of five years, five for terms of three years each, and one for a term of two years, as designated by the President at the time of appointment.

(2)(A) Of the two members appointed by the Speaker of the House of Representatives and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the Speaker at the time of appointment.

(B) Of the two members appointed by the minority leader of the House of Representatives and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the minority leader at the time of appointment.

(C) Of the two members appointed by the President pro tempore of the Senate and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the President pro tempore at the time of appointment.

(D) Of the two members appointed by the minority leader of the Senate and serving at any time, one shall be appointed for a term of five years and one for a term of two years, as designated by the minority leader at the time of appointment.

Any member elected to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be elected for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The Council members shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet no less often than once every three months at the call of the Chairperson, or upon the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Members of the Council who are not in the regular full-time employ of the United States may receive compensation when engaged in the duties of the Council at a rate fixed by the Secretary but not exceeding the daily equivalent of the rate provided for level GS–18 of the General Schedule under section 5332 of title 5, United States Code, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code. Members of the Council who are officers or employees of the Federal Government or any State or local government shall serve without compensation but shall be allowed travel expenses as so authorized.

(j) The Administrator of Nutrition Monitoring and Related Research (appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall, in addition to any powers and functions granted to it by this Act—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the quality and effectiveness of the fulfillment of the functions and responsibilities of the coordinated program;

(3) evaluate the coordinated program and comprehensive plan, and the associated budget, on an annual basis and submit recommendations to the Secretary; and

(4) submit to the Secretary an annual report which shall contain the components specified in paragraphs (2) and (3), and which shall be included in full in the Secretary's annual report to the President and the Congress as specified in section 102(b).

○

An Amendment in the Nature of a Substitute

SHORT TITLE

MR. BROWN

SECTION 1. This Act may be cited as the "National N
trition Monitoring and Related Research Act of 1986".

PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to make more effective use of Federal and Sta
expenditures for nutrition monitoring and to enhan
the performance and benefits of current Federal nut
tion monitoring and related research activities;

(2) to establish and facilitate the timely implement
tion of a coordinated National Nutrition Monitori
and Related Research Program and thereby establi
a scientific basis for the maintenance and improv
ment of the nutritional status of the United Stat
population and the nutritional quality of the Unit
States food supply;

(3) to establish and implement a comprehensive N
tional Nutrition Monitoring and Related Researc
Plan to assess on a continuing basis the dietary an
nutritional status and trends of the United States po
ulation, the state-of-the-art, future monitoring an
related research priorities, and the relevant policy in
plications;

(4) to establish and improve national nutritional an
health status data and related data bases and ne
works, and to stimulate research necessary to develo
uniform indicators, standards, methodologies, techno
ogies, and procedures for nutrition monitoring;

(5) to establish a central Federal focus for the coordi
nation, management, and direction of Federal nutri
tion monitoring activities;

(6) to establish mechanisms for addressing the nutri
tion monitoring needs of Federal, State, and local go
ernments, the private sector, scientific and enginee
ing communities, health care professionals, and th
public in support of the objectives described in para
graphs (1), (2), (3), (4), and (5); and

(7) to provide for the conduct of such scientific re
search and development as may be necessary or appro
priate in support of such objectives.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors which bear upon the contribution that nutrition makes to the health of the United States population, including (A) dietary, nutritional, and health status measurements, (B) food consumption measurements, (C) food composition measurements and nutrient data banks, (D) dietary knowledge and attitude measurements, and (E) food supply and demand determinations;

(2) the terms "National Nutrition Monitoring and Related Research Program" and "coordinated program" mean the coordinated program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the terms "National Nutrition Monitoring and Related Research Plan" and "comprehensive plan" mean the comprehensive plan established by section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to the Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, pursuant to section 1428 of Public Law 95-113;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established by section 201;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services acting jointly; and

(8) the term "local government" means a local general unit of government or local educational unit.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is hereby established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purpose of this Act.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is hereby established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant

Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as deemed appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months.

(d) To establish a central focus and coordinator for the Nutrition Monitoring and Related Research Program, the Secretaries may appoint a full-time Administrator of Nutrition Monitoring and Related Research. The Administrator—

(1) shall be an individual who is eminent in the field of nutrition monitoring and related areas, and shall be selected on the basis of his or her established record of expertise and distinguished service; and

(2) shall administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, shall serve as the focal point for the coordinated program, and shall serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

FUNCTIONS OF THE SECRETARIES

SEC. 102. (a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies;

(2) update and integrate the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System into the coordinated program;

(3) assure the timely implementation of the coordinated program and the comprehensive plan established by section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) which will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition

services (including activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction between Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses and to publish every two years, or more frequently if appropriate, a report on the dietary, nutritional and health-related status of the population of the United States and the nutritional quality of the national food supply; and

(9)(A) foster cost recovery management techniques, and (B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and utilize the proceeds of such charges and fees for purposes of the program (except that no such charge or fee imposed upon an educational or other nonprofit organization shall exceed the actual costs incurred by the program in providing the publication or publications involved).

(b) The Secretaries shall submit to the President for transmittal to the Congress by January 15 of each year an annual report which shall—

(1) evaluate the progress of the program under this Act;

(2) summarize the results of such program components as are developed under section 103;

(3) analyze the dietary, nutritional and related health status of the United States population, the nutritional quality of the national food supply, the relevant policy implications of the findings, and future nutrition monitoring and related research priorities;

(4) include in full the annual report of the Council as specified in section 202; and

(5) include an executive summary of the report most recently published by the scientific body specified in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PLAN

SEC. 103. (a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed—

(1) to assess, collate, analyze, and report on a continuous basis the dietary and nutritional status and trends of the United States population (dealing with

such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, Blacks, Hispanics, and other minorities as appropriate), the state-of-the-art, future monitoring and related research priorities, and relevant policy implications of the findings;

(2) to assess, analyze, and report on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when resources were not sufficient to provide an adequate diet;

(3) to sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) to develop and update a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) to assist State and local agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) to focus the activities of the Federal agencies.

(b) The comprehensive plan shall, as a minimum, include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide by 1990 for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the United States population designed to permit statistically reliable estimates of high-risk groups and geopolitical and geographic areas and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in the survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of NHANES and NFCS data sets collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary

status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related data bases and networks to promote the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, outcomes, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan which facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and which facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan—

(1) shall be submitted in draft form to the President for submission to the Congress, and for public review, within twelve months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1) by means of publication in the Federal Register;

(3) shall be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President for submission to the Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(e) Nothing in this section shall be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(3), and—

(1) shall be carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) shall be managed in accord with paragraphs (12) through (14) of section 103(b);

(3) shall be carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) shall be funded by appropriations which shall be made to such agencies pursuant to section 106 for each fiscal year of the program.

The Congress through its appropriate authorizing committees shall exercise continuing oversight over the coordinated program, taking into account the Secretaries' annual reports and such other information and data as may be developed.

(b) Nothing in this title shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Secretaries shall provide for and coordinate the conduct, by the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, and other suitable Federal agencies, of such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purpose and objectives of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. (a) Authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretaries and by each of the agencies which are allocated responsibilities under the coordinated program pursuant to section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

(b) Nothing in this title is intended either (1) to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds which would be authorized or expended for the same purposes in the absence of the coordinated program, or (2) to limit the authority of any of the participating agencies to request and receive funds for those purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) The President shall establish, within 90 days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purpose of this Act, shall provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and shall serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of eleven voting members, of whom—

(A) seven members shall be appointed by the President; and

(B) four members shall be appointed by the Congress—one by the Speaker of the House of Representatives, one by the minority leader of the House of Representatives, one by the President pro tempore of the Senate, and one by the minority leader of the Senate.

(3) The Council shall also include the joint chairpersons of the Board as ex officio nonvoting members.

(b) The persons appointed to the Council—

(1) shall be eminent in the fields of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, and economics; and

(2) shall be selected solely on the basis of established records of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) one member who is a director of a nutrition research unit which is primarily supported by Federal funds, and who has a specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and who has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and who has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership shall at all times have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. In case a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The term of office of each of the voting members of the Council shall be five years; except that of the seven members first appointed by the President, one shall be appointed for a term of two years, three for terms of three years, and three for terms of four years, as designated by the President at the time of appointment. Any member elected to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be elected for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The Council members shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet on a regular basis at the call of the Chairperson, or upon the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Appointed members of the Council shall not be employed by the Federal Government, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(j) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

FUNCTIONS OF THE COUNCIL

h Sec. 202. The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries an annual report which shall contain the components specified in paragraphs (2) and (3), and which shall be included in full in the Secretaries' annual report to the President for transmittal to the Congress as specified in section 102(b).

TITLE III—DIETARY GUIDANCE

ESTABLISHMENT OF DIETARY GUIDELINES

Sec. 301. (a) The Secretaries shall issue and publish basic dietary guidelines for the general population based on scientific knowledge and the dietary patterns and nutritional status of the population.

(b) Any Federal agency planning to issue basic dietary guidance for the general population shall submit the text of the proposed guidance to the Secretaries for review prior to release. The review process shall be completed within a period of 6 months after the proposed guidance is so submitted; and the guidance shall not be issued until the Secretaries have theretofore approved the proposed materials and notified the head of the agency of such approval. If the Secretaries fail to express any objection within that 6-month period, the submitting agency may release the dietary guidance.

Short Summary
# of the
Substitute Amendment to the Text of H.R. 2436

The substitute text of H.R. 2436--the National Nutritional Monitoring and Related Research Act of 1986--contains three titles, which deal with nutritional monitoring and related research, the National Nutrition Monitoring Advisory Council, and dietary guidance, respectively.

TITLE I--Nutrition Monitoring and Related Research

The major provisions of title I of the substitute text would--

(1) establish a ten-year program--the National Nutrition Monitoring and Related Research Program--to carry out the purpose of the bill, which is to improve nutrition monitoring (sec. 101(a));

(2) require the Secretaries of Agriculture and Health and Human Services, acting jointly, to implement the National Program (sec. 101(b));

(3) establish an Interagency Board for Nutrition Monitoring and Related Research to assist in implementing the National Program (sec. 101(c));

(4) authorize the Secretaries to appoint a full-time Administrator of Nutrition Monitoring and Related Research to administer the National Program (sec. 101(d));

(5) require the Secretaries to--

(a) ensure the timely implementation of the National Program and the comprehensive plan for the Program (described in (7) below);

(b) include in the National Program and comprehensive plan--

(i) a competitive grants program to encourage research to improve nutrition monitoring; and

(ii) a program of grants to State and local governments to encourage them to develop the capacity for nutrition monitoring;

(c) include in the National Program an annual interagency budget for each fiscal year of the Program;

(d) contract with a scientific body to publish, at least every two years, a report on the nutritional status of the people of the United States; and

(e) foster cost-recovery management techniques, and impose fees for publications of the National Program (sec. 102(a));

(6) require the Secretaries to report to the President and Congress annually on the progress of the National Program and on the nutritional status of the people of the United States (sec. 102(b));

(7) require the Secretaries to prepare and implement a comprehensive plan for the National Program that provides for--

(a) the assessment, analysis, and reporting (on a continuous basis) of the nutritional status of the people of the United States, with supplemental analyses of certain population groups, including low-income groups;

(b) research to improve nutrition monitoring;

(c) nutrition data banks; and

(d) assistance to State and local government agencies (sec. 103(a));

(8) require that the comprehensive plan include components to, among others--

(a) maintain and coordinate current Federal nutrition surveying activities;

(b) provide by 1990 for continuous comprehensive nutrition data collection and analysis; and

(c) in the first year of the plan, complete analyses of nutrition data collected prior to 1984 (sec. 103(b));

(9) provide that the comprehensive plan will constitute the basis on which Federal agencies participating in the National Program request appropriations for nutrition

monitoring and related research during the ten-year period of the program (sec. 103(d));

(10) provide that none of the provisions of section 103 (providing for the comprehensive plan) can be construed as modifying, or permitting the modification of, the terms of appropriation Acts specifying (a) the agency to which funds are appropriated or (b) the obligations of the agency with respect to the use of the funds (sec. 103(e));

(11) provide that nothing in title I is to be deemed to grant any new regulatory authority or modify regulation under existing law (sec. 104(b));

(12) require the Secretaries to provide for the conduct of research and development, by several science-oriented Federal agencies, to support the National Program and comprehensive plan (sec. 105);

(13) require that agency requests for authorizations or appropriations to carry out the National Program and comprehensive plan be separate line items in the budgets of the agencies involved, and be consistent with the overall interagency budget for the National Program (sec. 106(a));

(14) provide that appropriations for activities under the National Program are to be made on a three-year basis, to the extent feasible; and

(15) provide that nothing in title I is intended to create new expenditures or limit the authority of participating

agencies to request and receive funds for activities under the National Program under other laws (sec. 106(b)).

TITLE II--National Nutrition Monitoring Advisory Council

The major provisions of title II of the substitute text would--

(1) require the President, within 90 days after enactment of the bill, to establish a National Nutrition Monitoring Advisory Council. The membership of the National Council would--

(a) consist of eleven voting members (seven appointed by the President and four appointed by Congress) with five-year terms, selectd on the basis of their records of distinguished service; and

(b) include the joint chairmen of the Interagency Board as ex officio nonvoting members (sec. 201);

(2) establish the duties of the National Council as assisting in carrying out the bill, providing scientific and technical advice on the development and implementation of the National Program and comprehensive plan, and serving in an advisory capacity to the Secretaries (secs. 201 and 202); and

(3) require the National Council to submit annual reports to the Secretaries evaluating the National Program and comprehensive plan and recommending means of improving the

Program and plan. The reports would be included in the reports on the National Program submitted by the Secretaries annually to the President and Congress (sec. 202).

TITLE III--Dietary Guidance

Title III consists of one section, section 301, entitled "Establishment of Dietary Guidelines".

Section 301, in subsection (a), would require the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly, to issue and publish basic dietary guidelines for the general population based on scientific knowledge and the dietary patterns and nutritional status of the population.

Section 301, in subsection (b), provides that any Federal agency planning to issue basic dietary guidance for the general population would have to submit the text of the proposed guidance to the Secretaries of Agriculture and Health and Human Services for review prior to its release.

The process of review by the Secretaries would have to be completed within six months after the proposed guidance is submitted to the Secretaries.

The guidance could not be issued until the Secretaries approve the proposed materials and notify the head of the agency of such approval. If the Secretaries fail to express any objection within that 6-month period, the submitting agency could release the dietary guidance.

Amendment to H.R. 2436

Offered by Mr. Emerson

Strike Section 301. (b) of title III and insert in lieu thereof the following:

"(b)(1) Any Federal agency planning to issue dietary guidance shall submit the text of the proposed guidance to the Secretaries for review prior to release. The Secretaries shall determine within 30 days from the date such proposed guidance is submitted whether the proposed guidance is basic dietary guidance for the general population.

"(2) If the Secretaries determine that any proposed dietary guidance is basic dietary guidance for the general population the Secretaries shall within a period of 180 days from the date such determination is made review such proposed guidance; and the guidance shall not be issued until the Secretaries have theretofore approved the proposed materials and notified the head of the agency of such approval. If the Secretaries fail to express any objection within that 180 day period, the submitting agency may release the dietary guidance."

Explanation of Amendment Offered
by Mr. Emerson

This amendment is being offered to further clarify the provisions of Title III of H.R. 2436. This amendment clarifies that any dietary guidance issued by a Federal agency will be submitted to the Secretaries of Agriculture and HHS to be reviewed before publication. This first phase of the review process will be completed within one month. Dietary guidance which is considered to be basic dietary guidance for the general population will be reviewed by the Secretaries and will not be released until approval is granted and notification is made to the head of the Federal agency issuing such guidance. This second phase of the review process must be completed within six months. In addition, basic dietary guidance includes guidelines for health promotion and disease prevention.

Report Language Concerning H.R. 2436

Title I

The Secretaries of Agriculture and HHS, with the advice of the Board, are required to enter into a contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology. The purpose of this contract is to provide HHS and Agriculture with a biennial report on the dietary, nutritional and health related status of the population and the nutritional quality of the food supply. It is expected that such a report will explain and summarize the data available on these subjects. As a part of the contract with the scientific body the Secretaries of Agriculture and HHS will ensure review of the biennial report.

Title III

The term "Federal agency" referred to in Title III means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States.

[COMMITTEE PRINT]

MAY 15, 1986

[Showing H.R. 2482 As Reported by the Subcommittee on Department Operations, Research, and Foreign Agriculture on May 14, 1986]

99TH CONGRESS
2D SESSION

H. R. 2482

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1985

Mr. BEDELL (for himself and Mr. ROBERTS) introduced the following bill; which was referred to the Committee on Agriculture

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 14, 1985]

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—PREREGISTRATION ACCESS TO DATA

Sec. 101. Preregistration access to data.
Sec. 102. Criminal penalties for disclosure of information.

TITLE II—CONDITIONAL REGISTRATION

Sec. 201. Conditional registration.

TITLE III—REREGISTRATION AND REVENUES

Sec. 301. Definition of outstanding data requirement.
Sec. 302. Reregistration of registered pesticides.

TITLE IV—INERT INGREDIENTS

Sec. 401. Administrator's authority to require data on inert ingredients.
Sec. 402. Definition of ingredient statement.
Sec. 403. Disclosure of inert ingredients.

TITLE V—PUBLIC RIGHT TO KNOW

Sec. 501. Registration statements.
Sec. 502. Registration of establishments.

TITLE VI—DATA DISCLOSURE TO STATES

Sec. 601. Data disclosure to States.

TITLE VII—CANCELLATION PROCEDURES

Sec. 701. Interim administrative review.
Sec. 702. Proceedings under section 6.
Sec. 703. Cancellation and change in classification or labels.
Sec. 704. Public hearings and scientific review.
Sec. 705. Administrative changes.

TITLE VIII—FALSE OR INVALID DATA

Sec. 801. Cancellation of registration based on false or invalid data.
Sec. 802. Records.

TITLE IX—INSPECTIONS

Sec. 901. Inspections.

TITLE X—EXPORT OF PESTICIDES

Sec. 1001. Definition of misbranded.
Sec. 1002. Definition of importing country.
Sec. 1003. Pesticides and devices intended for export.
Sec. 1004. Cancellation notices furnished to foreign governments.
Sec. 1005. Cooperation in international efforts.
Sec. 1006. Tolerances and regulations for agricultural commodities.

TITLE XI—LIABILITY

Sec. 1101. Liability.

TITLE XII—CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

Sec. 1201. Certification, training, and recordkeeping amendments.

TITLE XIII—STATE AUTHORITY

Sec. 1301. State registrations.

TITLE XIV—DEFINITIONS

Sec. 1401. Definitions.

TITLE XV—INFORMATION REQUESTED

Sec. 1501. Information requested.

TITLE XVI—STATE COOPERATION, AID, AND TRAINING

Sec. 1601. Cooperative agreements.

TITLE XVII—SCIENTIFIC ADVISORY PANEL

Sec. 1701. Term.

TITLE XVIII—STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Sec. 1801. Authority for EPA action.

TITLE XIX—UNLAWFUL ACTS

Sec. 1901. Unlawful acts.

TITLE XX—PENALTIES

Sec. 2001. Penalties.

TITLE XXI—CONGRESSIONAL REVIEW

Sec. 2101. Congressional review.

TITLE XXII—REVIEW OF REGULATIONS

Sec. 2201. Review of regulations.

TITLE XXIII—DELEGATION AND COOPERATION

Sec. 2301. Delegation and cooperation.

TITLE XXIV—INDEMNITIES

Sec. 2401. Report by EPA.

TITLE XXV—RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER

Sec. 2501. Definition of groundwater.
Sec. 2502. Protection of groundwater.

TITLE XXVI—AUTHORIZATION FOR APPROPRIATIONS

Sec. 2601. Authorization for appropriations.

TITLE XXVII—MISCELLANEOUS

Sec. 2701. IR4 program.
Sec. 2702. Pesticide risk rating.
Sec. 2703. Study.
Sec. 2704. Definition.

TITLE XXVIII—CLARIFYING AND TECHNICAL AMENDMENTS

Sec. 2801. Clarifying amendments.
Sec. 2802. Technical amendments.

TITLE XXIX—TABLE OF CONTENTS AMENDMENTS

Sec. 2901. Table of contents amendments.

TITLE XXX—EFFECTIVE DATE

Sec. 3001. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—PREREGISTRATION ACCESS TO DATA

SEC. 101. PREREGISTRATION ACCESS TO DATA.

(a) In General.—Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end thereof the following new paragraph:

"(9) Preregistration access to data.—

"(A) If an application for—

"(i) a registration of a pesticide containing a new active ingredient, or

"(ii) a registration of a pesticide to authorize the initial food use of a pesticide active ingredient,

is submitted to the Administrator, the Administrator shall, before approving such application, provide, in accordance with this paragraph, public access to health, safety, and environmental data that are submitted or cited in support of such application.

"(B) To obtain access to the data referred to in subparagraph (A), a person must send by certified mail—

"(i) not later than 30 days after the publication under paragraph (4) of a notice

of the application referred to in subparagraph (A), and

"(ii) simultaneously to the Administrator and to the applicant for the registration of the pesticide,

a request for such access and the affirmation required by subparagraph (D).

"(C)(i) Not later than 15 days after receipt of a request for access to such data and the affirmation required by subparagraph (D), the Administrator shall grant or deny such request. The Administrator may not extend the 15-day period for acting on such request.

"(ii) If access to data is denied under clause (i), comments on the application for which such data were submitted shall be filed within 60 days from the decision of the Administrator denying access.

"(D)(i) Data referred to in subparagraph (A) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator considers necessary) containing the information prescribed by clause (ii).

"(ii) The affirmation required under clause (i) shall—

"(I) state that the person is neither employed by nor acting, directly or indirectly, on behalf of any other person or entity, or affiliate thereof, engaged in the production, sale, or distribution of a pesticide,

"(II) identify any business, employer, or other person, if any, on whose behalf the person is requesting access to the data, and

"(III) state that the person will not intentionally or recklessly violate this paragraph.

For purposes of this clause, an affiliate of a person or entitiy is a person who directly or indirectly, through one or more intermediates, controls or is controlled by or is under common control with the person or entity.

"(iii) Section 1001 of title 18, United States Code, shall apply to an affirmation made under this subparagraph.

"(E)(i) Data supporting an application may be made available under subparagraph (A) to a person only for the purpose of permitting the person to comment to the Administrator on such

application. Such comments may reasonably quote data submitted to the Administrator. No person, including the Administrator, may make such comments public before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(ii) Except as provided in clause (iii), data obtained under subparagraph (A) may not be—

"(I) published, copied, or transferred to any other individual or entity to obtain approval to sell, manufacture, or distribute a pesticide anywhere in the world, and

"(II) used for any purpose in any court or agency of the United States or any State or political subdivision thereof before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(iii) Such data and comments may be disclosed consistent with section 10 after registration

of the pesticide for which such data were submitted.

"(F)(i) Data made available under this paragraph may be examined at an office of the Environmental Protection Agency or an appropriate State agency that complies with this section and may not be removed from such office.

"(ii) The Administrator shall maintain a record of the persons who inspect data. A copy of such record shall be sent to the data submitter upon request.

"(G) Once access to data respecting an application is granted, the data may be examined and notes may be taken for use in developing comments on the application. Such comments on the application shall be filed within 60 days, unless extended by the Administrator for an additional 30 days for good cause.".

(b) NOTICE OF APPLICATION.—Section 3(c)(4) (7 U.S.C. 136a(c)(4)) is amended—

(1) in the first sentence, by striking out "promptly" and inserting in lieu thereof "not later than 30 days", and

(2) in the second sentence, by striking out "30" and inserting in lieu thereof "60".

SEC. 102. CRIMINAL PENALTIES FOR DISCLOSURE OF INFORMATION.

Paragraph (3) of section 14(b) (7 U.S.C. 136l(b)(3)) is amended to read as follows:

"(3) DISCLOSURE OF INFORMATION.—

"(A) Any person who, with intent to defraud, uses or reveals information relative to the formula of a product acquired under section 3(c)(9), shall be fined not more than $25,000, or imprisoned for not more than 3 years, or both.

"(B) Any person, including any officer, contractor, or employee of the United States or a State, who—

"(i) is granted access to data under section 3(c)(9), and

"(ii) in furtherance of a commercial purpose involving the production, registration, distribution, or sale of a pesticide—

"(I) knowingly violates such section, or

"(II) knowingly allows data to be made available in violation of such section,

shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.".

TITLE II—CONDITIONAL REGISTRATION

SEC. 201. CONDITIONAL REGISTRATION.

Section 3(c)(7) (7 U.S.C. 136a(c)(7)) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B)(i) Except as provided in clauses (ii) and (iv), the Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding the fact that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that—

"(I) the applicant has submitted or cited the additional data that the Administrator may require solely for the proposed additional use,

"(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment, and

"(III) the additional use is in the public interest.

"(ii)(I) Except as provided in subclause (II), if the Administrator has issued a notice stat-

ing that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), no registration of the pesticide may be amended under clause (i) during the pendency of any evaluation by the Administrator initiated by such notice.

"(II) If the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), the Administrator may amend the registration of a pesticide under clause (i) for an additional use if the additional use involves a minor food or feed use and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is not available an effective alternative pesticide that does not meet or exceed such risk criteria.

"(iii) An applicant seeking an amended registration of a pesticide under this subparagraph shall submit or cite to the Administrator such data as would be required to maintain a registra-

tion of a similar pesticide under this section. Except as provided in clause (iv), if the applicant is unable to submit or cite an item of such data because it has not yet been generated, the Administrator may amend the registration of a pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted for the maintenance of a registration of a similar pesticide under this section.

"(iv) If data concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required for registration of an additional use of a pesticide that is not a minor use, and such data requirement was in effect at the time, as determined by the Administrator, the applicant began studies to obtain such data, a conditional registration for such use shall not be granted under clause (i) unless such data have been submitted.

"(C) An amendment to an existing conditional registration, other than an amendment for an additional use, may be issued under subparagraph (B)(i) even though data required to support

such an amendment have not been submitted or cited if the registrant has—

"(i) initiated necessary tests to secure data referred to in subparagraph (B)(iii), and

"(ii) satisfied the other requirements for the amendment of a conditional registration imposed under this paragraph.

"(D)(i) Except as provided in clauses (ii) and (iii), the Administrator may conditionally register a pesticide containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data which have not been submitted because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement if—

"(I) the Administrator may reasonably expect to receive such data by the end of such period,

"(II) the Administrator may reasonably expect to receive data which will not meet or exceed the risk criteria specified in regulations issued under paragraph (8), and

"(III) such other conditions as the Administrator may prescribe are met.

"(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that—

"(I) use of the pesticide during the period referred to in clause (i) will not cause any unreasonable adverse effect on the environment, and

"(II) use of the pesticide is in the public interest.

"(iii) If data concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required for registration of the pesticide, and such a data requirement was in effect at the time, as determined by the Administrator, the applicant began studies to obtain the data, a conditional registration shall not be granted under this subparagraph unless such data have been submitted.".

TITLE III—REREGISTRATION AND REVENUES

SEC. 301. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following new subsection:

"(ff) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means any study, required information, or data necessary to make a determination under section 3(c)(5) that—

"(A) has not been submitted to the Administrator; or

"(B) has been submitted to the Administrator but which the Administrator determines is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued thereunder.

"(2) FACTORS.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 302. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.

"(a) GENERAL RULE.—The Administrator shall reregister, in accordance with this section, pesticides—

"(1) which have been registered under section 3 before November 1, 1984, and

"(2) which have not before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 been reregistered under this Act.

"(b) SPECIAL AUTHORITIES OF E.P.A.—

"(1) GUIDELINES.—Not later than one year after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall by order issue guidelines to be followed by registrants in—

"(A) summarizing studies,

"(B) reformatting studies,

"(C) identifying adverse information,

"(D) identifying studies that have been submitted which may not meet the requirements of section 3 or regulations issued under such section, and

"(E) identifying other information,

in accordance with subsection (f)(1). Guidelines issued under this paragraph shall not be subject to judicial review.

"(2) MONITORING.—

"(A) The Administrator shall monitor the progress of registrants in acquiring and submitting, within the time periods prescribed by subsection (e)(4)(B), data under an agreement entered into under subsection (e)(3)(B) to replace data which are missing or inadequate.

"(B) The Administrator shall monitor the progress of registrants in acquiring and submitting, within the time period prescribed by paragraph (2) of subsection (g), the data required under paragraph (1)(B) of subsection (g).

"(3) SUSPENSIONS AND PENALTIES.—

"(A) The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if—

"(i) the Administrator determines that progress is insufficient to ensure the submission of the data required under an agreement entered into under subsection (e)(3)(B) within the time period prescribed by subsection (e)(4)(B) or the registrant has not submitted such data to the Administrator within such time period,

"(ii) the Administrator determines that necessary tests to fill an outstanding data requirement for such pesticide have not been initiated within 1 year of the issuance of a notice under paragraph (1)(B) of subsection (g),

"(iii) the Administrator determines that progress is insufficient to ensure completion of tests referred to in clause (ii) within the time period prescribed by paragraph (2) of subsection (g) or the required test data have not been submitted to the Administrator within such time period, or

"(iv) a registrant fails to comply with clause (ii) or (iii) of section 3(c)(2)(B) of such Act.

"(B) A registrant who submits a certification under subsection (f)(1) which is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14(a).

"(c) REREGISTRATION PHASES.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (d) of the active ingredients of the pesticides which will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (e) of a notice by registrants respecting their intention to seek reregistration, an identification by registrants of missing and inadequate data existing for such pesticides, and an agreement by the registrant to replace such missing or inadequate data within the applicable time period.

"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (f).

"(4) The fourth phase shall include the an independent, initial review by the Administrator under subsection (g) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (h) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(d) PHASE ONE.—

"(1) PRIORITY FOR REREGISTRATION.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to active ingredients (other than active ingredients for which registration standards have been issued before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986) that, among other things—

"(A) are in use on or in food or feed and may result in postharvest residues,

"(B) may result in residues of potential toxicological concern in potable groundwater, edible fish, or shellfish,

"(C) have been determined by the Administrator before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 to have significant outstanding data requirements, or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) REREGISTRATION LISTS.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 60 days after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list pesticide active ingredients for which registration standards have been issued before such date,

"(B) not later than 4 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the first 150 pesticide active ingredients, as determined under paragraph (1),

"(C) not later than 7 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the second 150 pesticide active ingredients, as determined under paragraphs (1), and

"(D) not later than 10 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the remainder of the pesticide active ingredients.

Each list shall be published in the Federal Register.

"(3) JUDICIAL REVIEW.—The content of a list by the Administrator under paragraph (2) shall not be subject to judicial review.

"(4) NOTICE TO REGISTRANTS.—Upon the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time in which the registrants are to notify the Administrator under subsection (e) if they intend to seek or not to seek reregistration of such pesticides.

"(e) PHASE TWO.—

"(1) IN GENERAL.—The registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and the information and agreement described in paragraph (3).

"(2) NOTICE OF REREGISTRATION.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall notify the Administrator by certified mail if the registrant intends to seek or does not intend to seek reregistration of the pesticide.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek re-

registration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3 an identification of—

"(i) data which were not submitted or cited in support of the registration of the pesticide and which are required to meet such regulations, and

"(ii) data which were submitted or cited in support of the pesticide which are inadequate to meet such regulations; and

"(B) an agreement to replace data identified under subparagraph (A) within the applicable time period prescribed by paragraph (4)(B).

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data *are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (f) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be presumed to be inadequate if the data are derived from a study conducted before January 1, 1970, unless the registrant who would be required to identify such data demonstrates to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.*

"(4) TIME PERIODS.—

"(A) A submission under paragraphs (2) and (3)(A) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 3 months after the date of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 3 months after the date of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 3 months after the date of the listing of such active ingredient.

Upon application, the Administrator may extend the time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the applicant prevent the applicant from complying with such period.

"(B) A registrant shall submit data in accordance with an agreement entered into under paragraph (3)(B) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of an agreement under paragraph (3)(B). The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of an intent to cancel the registration of such registrant for such pesticide. Before issuing such a notice the Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. Upon expiration of such 60 days, the Administrator may by order cancel the registration or take such other action, including waiver of applicable time periods, as may be necessary to enable reregistration of such pesticide by another registrant.

"(B) If all the registrants of a pesticide notify the Administrator under paragraph (2) that the registrants do not intend to seek reregistration of a pesticide, if the Administrator cancels all the registrations of a pesticide under subparagraph (A), or if because of a combination of such notices and cancellations there are no registrants of the pesticide who intend to seek reregistration, the Administrator shall remove such pesticide from the list established under subsection (d)(2) and the Administrator shall issue a notice of an intent to

cancel the outstanding registrations for such pesticide. Before issuing such a notice the Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. The Administrator shall continue the outstanding registrations for such a pesticide if, during the 60-day comment period, a person—

"(i) offers to compensate such a registrant under section 3(c)(1)(D) for the use of data, and

"(ii) submits a notice under paragraph (2)(A) to seek reregistration.

For purposes of this section, the original data submitter shall provide such person access to the data for which information is required under subsection (f).

"(f) PHASE THREE.—

"(1) DATA INFORMATION.—Each registrant of a pesticide which contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) who has submitted a notice under subsection (e)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under subsection (b)(1), to the Administrator—

"(A) a summary of each study submitted in support of the registration of the pesticide and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section,

"(B) a reformat of the data—

"'(i) concerning chronic toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity, or

"(ii) concerning the residue chemistry of the pesticide,

which were submitted to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section,

"(C) in the case of a registrant who did not submit data which are to be reformatted under subparagraph (B), a reformat of acute and subchronic toxicity data submitted to the Administrator before January 1, 1982, which the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section,

"(D) an identification of data which are required to be submitted to the Administrator under

section 6(g)(4) and that indicate an adverse effect of the pesticide,

"(E) a summary of studies conducted in support of the registration that may or may not comply with regulations issued by the Administrator under section 3 but which the registrant asserts comply with such regulations and a reformatting of the data from such studies that are described in clause (i) or (ii) of subparagraph (B) or in subparagraph (C),

"(F) an identification of any other information available that in the registrant's view supports the registration,

"(G) a certification that the registrant possesses or has access to the raw data used in or generated by the studies summarized under subparagraphs (A) and (E), and

"(H) an agreement to fulfill all outstanding data requirements identified by the registrant.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection

(d)(2)(B), not later than 12 months after the date of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 12 months after the date of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 12 months after the date of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with an agreement entered into under subparagraph (H) of paragraph (1) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of the agreement under such subparagraph. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(g) PHASE FOUR.—

"(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.—

"(A) The Administrator shall review the submissions of a registrant of a pesticide under subsection (e)(3) to determine if such submissions identified all the data which are missing or inadequate for such pesticide and the submissions of the registrant under subsection (f)(1). To assist the review under this subparagraph, the Administrator may require an applicant for reregistration to submit complete copies of studies conducted under section 3 and the regulations thereunder.

"(B) The Administrator shall independently identify and publish in the Federal Register a list of each outstanding data requirement for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator shall also at the same time issue a notice under section 3(c)(2)(B) for the submission of the additional data which are required to meet such requirement.

"(2) TIME PERIODS.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 18 months after the date of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 24 months after the date of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time as determined by the Administrator but not to exceed 48 months after the issuance of such notice. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if ex-

traordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(h) PHASE FIVE.—

"(1) DATA REVIEW.—The Administrator shall conduct a thorough examination of all available data submitted or cited for such pesticide in accordance with the requirements of this section.

"(2) REREGISTRATION AND OTHER ACTIONS.—

"(A) REREGISTRATION.—After conducting the review prescribed by paragraph (1) the Administrator shall determine whether to reregister a pesticide under this subsection by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide should be reregistered, the Administrator shall reregister such pesticide within 1 year of the date of the submission of the data for such pesticide under subsection (g). For extraordinary circumstances the Administrator may extend the period for reregistration for not more than one additional year.

"(B) OTHER ACTION.—If the Administrator determines that a pesticide should not be reregis-

tered, the Administrator shall take appropriate regulatory action.

"(i) COMPENSATION OF DATA SUBMITTER.—

"(1) Section 3(c)(1)(D) shall apply with respect to the citation under this section of data which have been previously submitted to the Administrator under section 3 or this section.

"(2) If data which are submitted by a registrant under subsection (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation the fees paid by the registrant under this section shall be taken into account.

"(j) FEES.—

"(1) INITIAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—To review submissions under subsections (e)(3)(A) and (f)(1) for a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is registered for a major use on food or feed, the registrant of a pesticide that contains such ingredient who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i))

shall pay a fee of $50,000 upon submission of information under subparagraphs (A) through (E) of subsection (f)(1) for such ingredient.

"(2) FINAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—To review data submitted under an agreement entered into under subsection (e)(3)(B) and in response to a notice issued under paragraph (1)(B) of subsection (g) for a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is registered for a major use on food or feed and to conduct the examination required by subsection (h)(1), the registrant of a pesticide that contains such ingredient who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) shall pay a fee of $100,000 upon submission of data for such ingredient in response to a notice issued under paragraph (1)(B) of subsection (g). The registrant of a pesticide that contains an active ingredient listed under subparagraph (A) of subsection (d)(2) and that is registered for a major use on food or feed who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) shall pay a fee of $100,000 at such time as the Administrator shall prescribe.

"(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.—If a pesticide is registered solely for uses other than on food or feed or solely for a minor use on food or feed and contains an active ingredient that is listed under subsection (d)(2), the Administrator shall charge the registrant of such pesticide who is not engaged in the formulation of such pesticide into another product (as described in section 3(c)(2)(D)(i)) a fee that may be less than the fee prescribed by paragraphs (1) and (2) but not less than one-half the fees required by such paragraphs. A registrant shall pay such fee at the time the fees prescribed by paragraphs (1) and (2) are to be paid.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

"(A) In the case of a pesticide that is registered solely for agricultural or non-agricultural minor use or where value or volume or use is small, the Administrator may, upon application, reduce or waive the fees prescribed by paragraph (3).

"(B) In the case of an antimicrobial pesticide that contains active ingredients for which production levels do not exceed 1,000,000 pounds per year, the Administrator may, upon applica-

tion, reduce or waive the fees prescribed by paragraph (3).

"(5) OTHER FEES.—On payment of fees for the reregistration of a pesticide in accordance with paragraphs (1), (2), (3), or (4) the Administrator may not levy any other fees for the reregistration of such pesticide.

"(6) APPORTIONMENT.—If there are two or more registrants of a pesticide registered under this Act that contains active ingredients listed under subsection (d)(2) who are required to pay the fees prescribed by paragraphs (1) and (2) or paragraph (3) or (4), the fees for such active ingredients shall be apportioned among such registrants by the Administrator according to their respective market share.

by the registrants themselves. If the registrants fail to agree to a system of apportionment, the first applicant for reregistration of a pesticide shall pay the prescribed fee.

"(k) REVOLVING FUND.—

"(1) There shall be established in the Treasury of the United States a revolving fund.

"(2) All fees collected by the Administrator under subsection (j) shall be deposited into the revolving fund and shall, to the extent provided in appropriation Acts,

be available to the Administrator, without fiscal year limitation, to carry out this section.

"(3) Money in the revolving fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(4) The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the revolving fund; and

"(B) take all steps necessary to insure that expenditures of such funds are solely utilized to carry out this section.

"(l) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under section 16.".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 3 (7 U.S.C. 136a(g)) is repealed.

(c) DEFINITION.—

(1) Section 2 (7 U.S.C. 136), as amended by section 301, is amended by adding at the end the following:

"(gg) ANTIMICROBIAL.—The term 'antimicrobial' means a non-agricultural pesticide product not used on a food or feed crop, including—

"(1) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects,

"(2) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces or in water or air,

"(3) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture, or

"(4) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces.".

(2) Section 2(u) is amended by striking out "and" immediately before the first clause (2), by adding ", and" at the end of the first clause (2), and by adding a new clause (3) as follows: "(3) any substance or mixture of substances intended for use as an antimicrobial".

TITLE IV—INERT INGREDIENTS

SEC. 401. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS.

(a) SECTION 3(c)(2)(A).—Subsection (c)(2)(A) of section 3 (7 U.S.C. 136a(c)(2)(A)) is amended by inserting after "any additional kind of information under subparagraph (B) of this paragraph" the following: "including information regarding an inert ingredient in a pesticide".

(b) SECTION 3(c)(2)(B).—Subsection (c)(2)(B) of section 3 (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

> *"(vi) If the Administrator determines that additional data are required for an inert ingredient in a registered pesticide, the Administrator shall request such data from each registrant of such pesticide and, pursuant to this Act or other available authority, from producers of the inert ingredient."*

SEC. 402. DEFINITION OF INGREDIENT STATEMENT.

Subsection (n) of section 2 (7 U.S.C. 136(n)) is amended to read as follows:

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement that contains—

"(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide;

"(2) the name of each inert ingredient in a pesticide that the Administrator determines must appear in the ingredient statement because of the hazard that the Administrator has determined may be posed by the use pattern and concentration level of the inert ingredient in the pesticide;

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic; and

"(4) any other information concerning the chemical composition or identity of any active ingredient of the product, including information on chemical equivalency, that the Administrator requires to appear on the ingredient statement in order that the nature of the active ingredient is accurately represented.".

SEC. 403. DISCLOSURE OF INERT INGREDIENTS.

Section 10(d) (7 U.S.C. 136h(d))) is amended in the first sentence of paragraph (3) by striking out "If" and inserting in lieu thereof "Except with respect to disclosure of information on inert ingredients in inert ingredient statements in accordance with section 2(n), if".

TITLE V—PUBLIC RIGHT TO KNOW

SEC. 501. REGISTRATION STATEMENTS.

Section 3(c)(1) (7 U.S.C. 136a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) proposed fact sheets that contain—

"(i) the name of the pesticide active ingredients and inert ingredients for which the Administrator has required additional data under subsection (c)(2)(B)(vi); and

"(ii) a summary of relevant health, safety, and environmental data; and

"(H) a list of locations where the pesticide of the registrant will be produced in the United States.

Not later than 120 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, each registrant of a pesticide that is registered on the effective date of such Act shall submit the fact sheets required under subparagraph

(G) to the Administrator. A fact sheet required under subparagraph (G) for a registered pesticide shall be maintained and kept current by a registrant, and made available to the public, on request, by the registrant and the Administrator. The Administrator may require amendments to such fact sheets in order to provide accurate and clear information to the public. Not later than 120 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, each registrant of a pesticide that is registered on or before such effective date shall submit a list of locations where the registrant produces the pesticide in the United States. Such list shall be maintained and kept current by a registrant, and made available to the public, on request, by the Administrator and the registrant.".

SEC. 502. REGISTRATION OF ESTABLISHMENTS.

(a) CONFIDENTIAL RECORDS AND INFORMATION.—Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting "and production locations" after "names".

(b) FACT SHEETS.—Section 7 is amended by adding at the end thereof the following new subsection:

"(e) FACT SHEETS.—Any producer operating an establishment registered under this section shall obtain and make available to the public a fact sheet required under section

3(c)(1) for each active ingredient used in the establishment and inert ingredient for which the Administrator has required additional data under section 3(c)(2)(B)(vi).".

TITLE VI—DATA DISCLOSURE TO STATES

SEC. 601. DATA DISCLOSURE TO STATES.

(a) STATES.—Section 10 (7 U.S.C. 136h) is amended by adding at the end thereof the following new subsection:

"(h) DATA DISCLOSURE TO STATES.—

"(1) IN GENERAL.—The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator and the Administrator determines that the owner of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section.

"(2) ACTION FOR JUST COMPENSATION.—For the purpose of any action that may lie against the United States for just compensation under section 1491 of title 28, United States Code—

"(A) the disclosure or use of data or information provided by the Administrator to a State in a manner inconsistent with this section or sec-

tion 3 shall be considered a taking of property; and

"(B) the act of a State with respect to such data or information shall be considered an act of the United States.".

(b) DATA SYSTEM.—Section 31 (7 U.S.C. 136y) is redesignated as section 33 and the following new section is inserted after section 30:

"SEC. 31. COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

"(a) DATA SYSTEMS.—The Administrator shall establish, administrate, and be responsible for the continuing activities of an agency committee which shall design, establish, and coordinate an efficient system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies or States and the use of the data submitted to the Administrator under this Act. The Administrator shall complete, within 36 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the design and implementation of the system and procedures required by this subsection. The agency committee so established shall solicit advice from data users outside the Federal Government through means of an advisory committee that shall consist of representatives

from private groups, State governments and organizations, industry, and other representatives as may be appropriate.

"(b) DATA RETRIEVAL.—The Administrator shall, in consultation and cooperation with the Secretary of Agriculture and other heads of appropriate Federal and State departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of pesticidal, toxicological, and other scientific data which could be useful to the Administrator in carrying out this Act. Systematized retrieval shall be developed for use by all Federal and State departments and agencies with responsibilities in the area of regulation or study of pesticides and their effect on man and the environment.

"(c) INDEX.—In designing and implementing the systems required by subsections (a) and (b), the Administrator shall be responsible for indexing information previously submitted and information submitted after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 by pesticide name, Chemical Abstracts Service registry number, plant sites by State, and submitter, so that information can be retrieved in a timely and useful manner.

"(d) REPORT.—The Administrator shall, within 24 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, submit a

report to the Congress on the progress in designing and implementing the system for information management required by this section. The report shall address the handling of information submitted before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 as well as the procedures established to assure that information collected after such date will adhere to the provisions of this section.

"(e) CONFIDENTIALITY.—Dissemination of information and data collected under this section to any State shall be subject to section 10.

"(f) AUTHORIZATION.—There are authorized to be appropriated for fiscal years 1987, 1988, 1989, and 1990 to carry out this section such sums as may be necessary but not more than $500,000 for any fiscal year.".

TITLE VII—CANCELLATION PROCEDURES

SEC. 701. INTERIM ADMINISTRATIVE REVIEW.

(a) SECTION 3(c)(8).—Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

"(8) INTERIM ADMINISTRATIVE REVIEW PROCEEDINGS.—

"(A) IN GENERAL.—An interim administrative review to determine whether the use of a pesticide may pose unreasonable adverse effects to

humans or the environment shall be conducted in accordance with this paragraph.

"(B) CRITERIA FOR INITIATING AN INTERIM ADMINISTRATIVE REVIEW.—

"(i) Criteria for initiating an interim administrative review of a pesticide shall be set forth in regulations published by the Administrator.

"(ii) Such criteria shall be established on the basis of levels of risk and may include consideration of currently available exposure data.

"(iii) Absence of exposure data shall not delay or preclude initiation of an interim administrative review. The Administrator may decline to initiate an interim administrative review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

"(C) REVIEW REQUIREMENT.—The Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of such

pesticide required under this Act unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

"(D) PRE-REVIEW NOTICE PROCEDURES.—

"(i) On receipt of information respecting a pesticide demonstrating that the criteria for initiating an interim administrative review established under subparagraph (B) have been met, the Administrator shall immediately notify all registrants of such pesticide and provide the registrants with appropriate information and an explanation of the manner in which the criteria have been met.

"(ii) Not later than 30 days after receipt of such notice, a registrant may respond to such notice.

"(iii) Not later than 30 days after the Administrator receives a response from a registrant, the Administrator shall determine whether an interim administrative review of the pesticide shall be initiated.

"(E) NOTICE.—If the Administrator intends to initiate an interim administrative review of a pesticide that is registered for agricultural uses, the Administrator shall notify the Secretary of Agriculture of the intention to initiate such review and the reasons therefor.

"(F) REVIEW PROCEDURE.—

"(i) Any interim administrative review proceeding shall be initiated and conducted in accordance with regulations published by the Administrator. The regulations shall provide for publication of a notice of initiation of an interim administrative review, opportunity for public comment thereon, publication of a notice of preliminary determination, opportunity for public comment thereon, and publication of a notice of final determination, except that the Administrator may combine or forego any part of an interim administrative review if notice and opportunity for comment is provided for each part included in such a review.

"(ii) Any proposed determination of the Administrator shall be submitted to the Scientific Advisory Panel established under sec-

tion 25(d) at the next scheduled meeting of the panel for comment solely on relevant scientific issues. The public may submit comments to the Scientific Advisory Panel concerning such issues. The Administrator shall review and consider the report of the Scientific Advisory Panel containing its comments on the determination.

"(iii) The notice of the initiation of an interim administrative review or the notice of a determination shall state the basis for the review or determination and include a request for any additional data needed and a bibliography of all scientific data and studies concerning the toxicity, exposure, and benefits of the pesticide which is the subject of the review. Information in the bibliography shall be made available to the public. If the Administrator receives additional data, the Administrator shall, within 30 days of receiving the additional data, revise the bibliography to reflect such data and make the revised bibliography available to the public.

"(iv) Not later than 90 days after the publication of a notice of the initiation of an

interim administrative review or a notice of a determination, comments may be submitted on such review or determination. Any person who submits comments shall disclose to the Administrator all scientific data and studies and related analysis in such person's possession concerning the toxicity, exposure, and benefits of the pesticide which is the subject of the review or determination which were not included in the bibliography included in such notice. If such person receives additional scientific data not included in such bibliography, such person shall disclose such scientific data and studies to the Administrator within 30 days of receiving the data.

"(v) Not later than 18 months after the initiation of a review, the Administrator shall make a decision whether or not to retain, restrict, or cancel the uses of the pesticide which was the subject of the review.

"(vi) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which—

"(I) additional data critical to a fair and accurate determination of risks

posed by the pesticide subject to review are required;

"(II) the extension is for a period limited to the time required to obtain such data on an expedited basis and in no event to exceed 1 year; and

"(III) the Administrator acted to obtain the additional data at the time the interim administrative review was initiated unless the Administrator could not have reasonably known of the need for such data at such time.

"(G) JUDICIAL REVIEW.—Any person may seek judicial review under section 16(a) of the failure of the Administrator to make a decision within the time period prescribed under subparagraph (C).".

(b) SCIENTIFIC ADVISORY PANEL.—The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by striking out "The" and inserting in lieu thereof "Except when a referral is made pursuant to section 3(c)(8)(F) to the Scientific Advisory Panel established by this subsection, the".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to interim administra-

tive reviews under section 3(c)(8) of the Federal Insecticide, Fungicide, and Rodenticide Act initiated after January 1, 1987.

SEC. 702. PROCEEDINGS UNDER SECTION 6.

Section 6 (7 U.S.C 136d) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

"(f) HEARING PROCEDURES AFTER INTERIM ADMINISTRATIVE REVIEW.—The following special rules shall govern any hearing under subsection (d) of this section that resulted from a notice of intent to cancel or change the classification of a pesticide that was based on the Administrator's final decision in an interim administrative review proceeding under section 3(c)(8):

"(1) REQUEST FOR HEARING.—Any person who is adversely affected by a decision of the Administrator respecting a pesticide, including a person without an economic interest in such pesticide following an interim administrative review may request a hearing within 30 days of such decision. A person may request a hearing, or intervene in a hearing, only if that person submitted comments during the interim administrative review proceeding in accordance with section 3(c)(8)(F).

"(2) PROCEDURES.—

"(A) At the request of a party, a hearing examiner may receive into evidence portions of the interim administrative review record that the party demonstrates are relevant and material to the disputed issues, and other evidence that is relevant, material, not unduly repetitious, sponsored by a competent witness or witnesses available to be cross-examined on all matters relating to such evidence, and that consists of direct testimony of witnesses concerning information that was filed in the interim administrative review proceeding, cross-examination of such witnesses, and exhibits used in such cross examination. Direct testimony of witnesses concerning information that was not, but could have been, obtained and submitted in the interim administrative review proceeding by the exercise of due diligence by the offering party shall not be admissible.

"(B) The right of other parties to confront and cross-examine such evidence shall be preserved with respect to material issues of adjudicative fact, so long as such cross examination is not unduly repetitious.

"(C)(i) Not later than 120 days after the hearing examiner is appointed, prehearing matters

shall be completed and the hearing shall commence.

"(ii) The hearing examiner may establish a schedule for prehearing matters, including discovery and motions, and shall ensure that the hearing schedule is met. The hearing examiner shall issue such orders as are appropriate for the purpose of simplifying and clarifying issues, specifying the order of presentation of witnesses, and allocating the time for cross-examination, briefing, and decision.

"(iii) Discovery shall be permitted after the expiration of 120 days after the appointment of the hearing examiner upon a determination by the hearing examiner that (I) such discovery shall not in any way unreasonably delay the proceeding, (II) the information to be obtained is not otherwise obtainable, and (III) such information has significant probative value and is necessary to obtain relevant evidence needed to resolve a material issue in dispute.

"(D) Any challenge to—

"(i) the authority to issue, or

"(ii) the procedural correctness of the issuance of,

the notice of intent to cancel or change classification or to any request for a hearing or motion to intervene shall be filed with the Administrator before the commencement of the evidentiary phase of the hearing.

"(E) Not later than 30 days before the hearing commences, the parties shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended upon motion by a party.

"(F) If new studies become available that were not available during the interim administrative review, the hearing examiner may, on request of any party and when in the judgment of the hearing examiner it is necessary, submit such studies to the Scientific Advisory Panel established under section 25(d) for supplemental comment on an expedited basis under such time limits as may be established by the hearing examiner.

"(G) The hearing examiner shall schedule the presentation and examination of witnesses so that the presentation of evidence is completed within 60 days of the commencement of the hearing, except that the schedule shall not prejudice the right of a party to present evidence. The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case and shall have the burden of proof as to that issue.

"(H) A hearing conducted in accordance with this subsection shall be completed and the Administrator shall make a final decision within 240 days of the issuance of the notice that gave rise to the hearing.

"(I) The time limits imposed by this paragraph may not be extended, except in exceptional circumstances in which such extension is essential for a fair and accurate determination of pivotal facts central to the proceeding. In no event may such time limits be extended more than 180 days.".

SEC. 703. CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.

Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELS.—

"(1) NOTICE OF CANCELLATION OR CHANGE IN CLASSIFICATION.—

"(A) If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of the intent of the Administrator—

"(i) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the action of the Administrator; or

"(ii) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

"(B) A notice issued under subparagraph (A) shall be sent to each registrant of the pesticide

with respect to which the notice is issued and shall be made public.

"(C) In determining whether to issue a notice under subparagraph (A), the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

"(D)(i) Not later than 60 days before sending a notice to a registrant or making public such notice under subparagraph (B), whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of the proposed notice under subparagraph (A) and an analysis of the impact of the proposed action on the agricultural economy. The Secretary of Agriculture shall provide comments on such notice and analysis to the Administrator within 30 days of receiving the copy of such notice.

"(ii)(I) If the Secretary of Agriculture provides such comments in writing within 30 days of receiving the copy of such notice, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the re-

sponse of the Administrator with regard to the comments of the Secretary.

"(II) If the Secretary of Agriculture does not provide such comments in writing within 30 days of receiving the copy of such notice, the Administrator may notify the registrant and make public the notice at any time after such 30-day period.

"(iii) The time requirements imposed by this subparagraph may be waived or modified to the extent agreed upon by the Administrator and the Secretary of Agriculture.

"(E) If the Administrator finds that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture prescribed by subparagraph (D) and of submission to the Scientific Advisory Panel under section 25(d) and proceed in accordance with subsection (c).

"(2) HEARING.—

"(A) The action proposed in a notice issued under paragraph (1)(A) shall become final and effective at the end of 30 days from receipt by the

registrant or publication of a notice issued under paragraph (1)(B), whichever occurs later, unless within that time—

"(i) the registrant makes the necessary corrections, if possible; or

"(ii) a request for a hearing is made by a person adversely affected by the notice.

"(B) Whenever a request for a hearing is made, the request shall—

"(i) identify with particularity the findings and conclusions of the decision of the Administrator that are disputed; and

"(ii) include a complete statement of the reasons and factual basis that support the request for a hearing.

"(C) Any party to the proceeding may identify findings and conclusions in dispute.

"(D) If a hearing is held pursuant to such a request or the determination of the Administrator under paragraph (1)(A)(ii), a decision pertaining to registration or classification issued after completion of such hearing shall be final.

"(3) FACTORS.—In taking any action under paragraph (1), the Administrator shall—

"(A) consider restricting a use or uses of a pesticide as an alternative to cancellation and fully explain the reasons for such restriction; and

"(B) consider the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and publish in the Federal Register an analysis of such impact.".

"(4) LABEL CHANGES.—

"(A) If the Administrator determines that a change in the label of a registered pesticide is necessary to prevent use of the pesticide from causing unreasonable adverse effects on the environment and would not delete from the label authority to use the pesticide on a particular crop or site, render the product unmarketable, or have an adverse impact on the production or price of agricultural commodities the Administrator may notify the registrant of such pesticide of the change proposed by the Administrator and provide that the registrant may submit comments to the Administrator on such proposed change in the 30-day period beginning on the date of the receipt of such notice. If a registrant who is notified by the Administrator of a proposed label change does not

submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a notice stating that if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be cancelled by operation of law. The registration of a registrant who does not respond to a second notice shall by order be cancelled.

"(B) If a registrant submits an objection to the Administrator in response to a notice under subparagraph (A) respecting a proposed label change, the Administrator may, by regulation issued in accordance with section 553 of title 5, United States Code, determine—

"(i) that a use of a pesticide product (or category of products) causes or will cause unreasonable adverse effects on the environment; and

"(ii) subject to the restrictions on the Administrator's authority imposed in subparagraph (A), the label under which the pesticide product (or category of products) may be distributed, sold, or used without

causing unreasonable adverse effects on the environment.

"(C) Any regulation issued under subparagraph (B) (and any refusal of a petition to modify or rescind such a regulation) shall be reviewable only as provided by section 16(e).

"(D) After the promulgation of a regulation under subparagraph (B), a registrant may request a hearing under subsection (d) on such regulation. A user of a pesticide subject to such regulation may also request such a hearing. The scope of the hearing shall be limited to—

"(i) whether the pesticide complies with the regulation;

"(ii) whether the regulation by its terms is applicable to such pesticide; and

"(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.".

SEC. 704. PUBLIC HEARINGS AND SCIENTIFIC REVIEW.

Section 6(d) (7 U.S.C. 136d(d)) is amended—

(1) by striking out the fifth through ninth sentences; and

(2) in the tenth sentence—

(A) by striking out "(including the report of the Academy)",

(B) by striking out "90 days thereafter" and inserting in lieu thereof "18 months after issuance of the notice that gave rise to the hearing", and

(C) by inserting before the last sentence the following: "The time period prescribed by the preceding sentence may be extended by the Administrator under extraordinary circumstances for not more than one year.".

SEC. 705. ADMINISTRATIVE CHANGES.

(a) AMENDMENT TO SECTION 6.—Subsection (g) of section 6 (7 U.S.C. 136d) (as so redesignated by section 702) is redesignated as subsection (h) and the following new subsection is inserted after subsection (f):

"(g) GENERAL PROVISIONS.—

"(1) VOLUNTARY CANCELLATION.—A registrant may at any time request that any of its pesticide registrations be cancelled or be amended to delete one or more uses. Before acting upon such request, the Administrator shall publish in the Federal Register a

notice of the receipt of such a request. Thereafter the Administrator may approve such a request.

"(2) PUBLICATION OF NOTICE.—A notice of denial, notice of intent to cancel, notice of suspension, or notice of intent to suspend issued under this Act shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

"(3) EXISTING STOCKS.—The Administrator may permit the continued use, the continued distribution or sale, or both, of existing stocks of a pesticide whose registration is cancelled under any provision of this Act to such extent, under such conditions, during such periods, and for such uses as he may specify if he determines that such distribution, sale, or use is not inconsistent with the purposes of this Act and will not cause unreasonable adverse effects on the environment.

"(4) ADDITIONAL INFORMATION.—If at any time after the registration of a pesticide the registrant has additional information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator. For purposes of this paragraph, the term 'information' includes factual information and expert opinion regarding risks and benefits.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 3(c)(6).—Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended by striking out the period at the end and inserting in lieu thereof the following: "except as otherwise provided in this paragraph. A request for a hearing under section 6 shall be made within 30 days of the receipt of such notification. The Administrator may issue regulations governing the right to a hearing under section 6 with regard to the denial of any application for the registration of a product containing an ingredient which was cancelled under section 6. Under such regulations, due weight shall be given to the desirability of finality of prior proceedings and determinations and the extent that the applicant had an opportunity to participate in earlier proceedings. Section 6(g)(2) applies with respect to the publication of a notice of a denial of a registration.".

(2) Section 6(a)(2).—Section 6(a) (7 U.S.C. 136d(a)) is amended—

(A) by striking out paragraph (2), and

(B) by striking out "(1) Procedure.—", by striking out ": Provided" and all that follows in the first sentence and inserting in lieu thereof a period, and inserting the matter in paragraph (1) after the subsection heading so that it is flush with the full left-hand margin of the section.

TITLE VIII—FALSE OR INVALID DATA

SEC. 801. CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.

Subsection (h) of section 6 (7 U.S.C. 136d) (as redesignated by section 704 of this Act) is redesignated as subsection (i) and the following new subsection is inserted after subsection (g):

"(h) Cancellation of Registration Based on False or Invalid Data.—

"(1) Notice.—The Administrator shall immediately issue a notice of intent to suspend or to cancel the registration of a pesticide if—

"(A) before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator has pre-

viously determined in the Industrial Biotest validation process conducted by the Administrator that data submitted by a registrant to the Administrator in support of such registration were invalid;

"(B) the data referred to in subparagraph (A)—

"(i) have not been replaced on the effective date of such Act; or

"(ii) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

"(C) such data are material to the registration.

"(2) INVALID DATA.—If, after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator determines that invalid data have been submitted by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may—

"(A) require the registrant to submit valid replacement studies or data on an expedited schedule and to submit interim progress reports; or

"(B) issue a notice of intent to cancel such registration, if the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data and the need to use the data to determine whether the pesticide may cause unreasonable adverse effects on the environment.

"(3) FALSE DATA.—If a registrant willfully submits material data known to be false in support of the registration of a pesticide, the Administrator shall immediately issue a notice of intent to suspend or cancel such registration.

"(4) HEARING.—

"(A) Any suspension or cancellation under this subsection shall become final and effective at the end of the 30-day period beginning on receipt by the registrant of a notice issued under this section unless during such period a request for a hearing is made by a person adversely affected.

"(B) A hearing under this paragraph shall be conducted in accordance with subsection (c) or (d), as appropriate.

"(C) In the case of a hearing held with respect to action proposed to be taken under para-

graph (1), the only matters for resolution shall be whether—

"(i) in response to a notice of the Administrator issued under section 3(c)(2)(B) or other formal notice, data previously determined by the Administrator to be invalid—

"(I) have not been replaced on the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986; or

"(II) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

"(ii) the data are material to the registration.

"(D) In the case of a hearing held with respect to action proposed to be taken under paragraph (2), the only matters for resolution shall be whether data are invalid, material, and necessary to adequately determine whether a pesticide may cause unreasonable adverse effects on the environment.

"(E) In the case of a hearing held with respect to action proposed to be taken under para-

graph (3), the only matters for resolution shall be whether a registrant willfully submitted material data known to be false.

"(F) A decision after completion of a hearing conducted under this paragraph shall be final.

"(G) Notwithstanding any other provision of this Act, a hearing shall be held, and a determination made, under this subsection within 75 days after the receipt of a request for such hearing.".

SEC. 802. RECORDS.

(a) SECTION 8.—Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—The Administrator may by regulation require any producer, exporter, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or commercial applicator, or any person who distributes or sells any pesticide—

"(1) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such record to the Administrator upon written request.

The Administrator may not require any person who distributes or sells at retail a pesticide which is not subject to a restricted use classification under section 3 to prepare, maintain, or furnish any record under this subsection with respect to such pesticide.

"(b) LIMITATIONS.—The Administrator may not, under the authority of subsection (a), require any person to maintain records of—

"(1) financial data, sales data, or pricing data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data (other than data relating to registered pesticides, data relating to any pesticides for which an application for registration or for an experimental use permit has been filed, or data relating to testing at a pesticide testing facility).".

(b) DEFINITION.—Section 2 (7 U.S.C. 136) (as amended by section 302(c)) is amended by adding at the end the following:

"(hh) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) on its own behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing it). The term does not include any person solely on account of such person's participation as a cooperator in field testing of a pesticide in compliance with an experimental use permit under section 5.".

TITLE IX—INSPECTIONS

SEC. 901. INSPECTIONS.

(a) SECTION 9(a).—Section 9(a) (7 U.S.C. 136g(a)) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—Officers or employees of the United States or of any State, duly designated by the Administrator, are authorized at reasonable times, as provided by this section—

"(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, in order to inspect and obtain samples of any pesticide, active in-

gredient, or device being distributed or sold at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(2) to enter any place where there are located any records required by or under this Act or any place reported pursuant to section 8(a) as a location where such records are maintained, in order to inspect and obtain copies of such records;

"(3) to enter any pesticide testing facility, in order to inspect the facility and the testing being conducted at the facility and to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

"(4) to enter any place where such officer or employee has probable cause to believe that the Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, in order to inspect such place to obtain evidence of such violation.".

(b) SECTION 9(b).—Section 9(b) (7 U.S.C. 136g(b)) is amended to read as follows:

"(b) WARRANTS.—Officers or employees of the United States or of any State, duly designated by the Administrator,

are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purposes of this section;

"(2) inspection and copying of all records required under this Act; and

"(3) seizure of any pesticide or device which is in violation of this Act.".

(c) PROCEDURE AND COORDINATION.—Section 9 is further amended by adding at the end the following:

"(d) PROCEDURE.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the inspection and whether a violation of the law is suspected. Each inspection shall be commenced and completed with reasonable promptness. If the person conducting the inspection obtains any samples of pesticides or devices, before leaving the premises such person shall give to the person in charge of the premises a receipt describing the samples and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.

"(e) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.".

TITLE X—EXPORT OF PESTICIDES

SEC. 1001. DEFINITION OF MISBRANDED.

Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export that is substantially similar in composition and use pattern to a pesticide registered under section 3, the label does not contain the same health, safety, and hazard precautions as a pesticide registered under section 3, unless such precautions on the label are in conflict with the law of the importing country.".

SEC. 1002. DEFINITION OF IMPORTING COUNTRY.

Section 2 (7 U.S.C. 136) (as amended by section 802(b) of this Act) is amended by adding at the end thereof the following new subsection:

"(ii) IMPORTING COUNTRY.—The term 'importing country' means the first country to which a pesticide, device, or active ingredient, subject to the notification requirement of section 17(a), is exported from the United States.".

SEC. 1003. PESTICIDES AND DEVICES INTENDED FOR EXPORT.

(a) IN GENERAL.—Subsection (a) of section 17 (7 U.S.C. 136o(a)) is amended to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—

"(1) VIOLATIONS.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be considered in violation of this Act when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to section 2(p), subparagraphs (A), (C), (D), (E), (G), (H), and (I) of section 2(q)(1), subparagraphs (A), (B), (C)(i), (C)(iii), and (D) of section 2(q)(2), sections 7 and 8, and paragraphs (2), (3), (4), (5), and (6) of section 17(a).

"(2) EXPORTS.—

"(A) This paragraph applies to a pesticide, device, or active ingredient—

"(i) for which a restricted use classification has become effective under section 3;

"(ii) for which a cancellation or suspension has become effective under section 6;

"(iii) the registration of which has been voluntarily withdrawn by the registrant, if such withdrawal was associated with concern over potential adverse public health or environmental effects; or

"(iv) that is not registered under section 3 for any use.

"(B) No pesticide, device, or active ingredient described in subparagraph (A) may be exported to any foreign country by any person unless, at least 30 days before the first shipment each year of such pesticides to such country, such person has—

"(i) notified, pursuant to paragraph (3), the person importing the pesticide and the appropriate government regulatory office in the importing country;

"(ii) received written evidence that the notification was delivered to the appropriate government regulatory office; and

"(iii) submitted a copy of the notification in English and evidence of delivery to the Administrator.

"(C) Documents referred to in subparagraph (B) shall be made available to the public, on request.

"(3) N*OTIFICATION*.*—The notification required pursuant to paragraph (2) shall be made in an appropriate language and shall contain the following information—*

"(A) the name of the pesticide and the common and chemical names of the active ingredient;

"(B) the name and address of the person exporting the pesticide;

"(C) the name and address of the person importing the pesticide;

"(D) the name and address of the appropriate government regulatory office in the importing country;

"(E) a statement of the reasons why the pesticide was cancelled, suspended, voluntarily withdrawn, is not registered in the United States, or has been classified for restricted use, and the list of restrictions; and

"(F) the name and address of the office of the United States Environmental Protection Agency that, on request by the importer or official of the importing country, can provide additional information on the pesticide.

"(4) LABELS.—

"(A) The label of pesticides intended for export from the United States shall be written in an appropriate language.

"(B) Except as provided in section 2(q)(1)(H), such label may not refer to compliance with the laws of the United States unless the label also contains or is accompanied by a description of the relevant requirements of such laws.".

(b) EFFECTIVE DATES.—

(1) Section 17(a)(2) and (3) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended by subsection (a) of this section) shall become effective 90 days after the date of enactment of this Act.

(2) Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a list of the names, addresses, and international telecommunications codes of appropriate regula-

tory offices required to receive notices under section 17(a)(2)(B) of the Federal Insecticide, Rodenticide, and Fungicide Act.

(3) Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall revise the list required under paragraph (2).

(4) Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register preliminary guidelines regarding—

(A) the form of the notification required under section 17(a)(2) of the Federal Insecticide, Rodenticide, and Fungicide Act;

(B) translation of the notification and labels required under such section into the appropriate language;

(C) retention of shipping documents and other pertinent records by exporters under such section; and

(D) procedures for public access to documents submitted by exporters under such section.

(5) Not later than 1 year after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to carry out paragraphs

(2) and (3) of section 17(a) of the Federal Insecticide, Rodenticide, and Fungicide Act and this subsection.

SEC. 1004. CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.

Subsection (b) of section 17 (7 U.S.C. 136o(b)) is amended to read as follows:

"(b) Cancellation Notices Furnished to Foreign Government.—

"(1) Issuance.—The Administrator shall transmit through the Secretary of State a notice, at such time and annually thereafter, to the appropriate governmental regulatory office of other countries and to appropriate international agencies whenever—

"(A) a registration, or a cancellation or suspension of the registration, of a pesticide becomes effective, or ceases to be effective; or

"(B) a pesticide is classified for restricted use.

"(2) Contents.—A notice under paragraph (1) shall include—

"(A) the reasons for the regulatory action taken;

"(B) for canceled or suspended registrations, information concerning other pesticides that are

registered under section 3 and that could be used in lieu of such pesticide; and

"(C) the name and address of the office of the United States Environmental Protection Agency that, on request, can provide additional information on the pesticide.".

SEC. 1005. COOPERATION IN INTERNATIONAL EFFORTS.

Subsection (d) of section 17 (7 U.S.C. 136o(d)) is amended to read as follows:

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall—

"(1) in cooperation with the Secretary of State, other appropriate Federal agencies, and non-governmental and international organizations, actively participate in international efforts to develop improved pesticide research and regulatory programs;

"(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs;

"(3) within 1 year of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, and every 3 years thereafter, conduct and publish a survey of all countries that import pesticides from United States exporters or from

which the United States imports agricultural commodities, to—

"(A) ascertain what procedures are in place in each country regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides; and

"(B) control residues on foods in order to meet tolerances established under United States law; and

"(4) report to Congress annually on the activities conducted to comply with this subsection and the results thereof.".

SEC. 1006. TOLERANCES AND REGULATIONS FOR AGRICULTURAL COMMODITIES.

Section 17 (7 U.S.C. 136o) is amended by adding at the end thereof the following:

"(f) TOLERANCES AND REGULATIONS FOR AGRICULTURAL COMMODITIES.—

"(1) REGISTRATION.—Subject to paragraph (2), if the registration of a pesticide under this Act has been canceled, suspended, or denied (unless such action was due to environmental effects) or has been voluntarily withdrawn (unless voluntarily withdrawn for economic reasons), not later than 60 days after such action—

"(A) the corresponding tolerance or exemption from tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) shall be revoked or amended; or

"(B) the corresponding food additive regulation established under section 409 of such Act (21 U.S.C. 348) shall be revoked or amended.

"(2) AMENDMENT OF TOLERANCE OR REGULATION.—A tolerance or food additive regulation may not be revoked or amended if the amendment or revocation would not permit food in commerce that contains residues of a pesticide which would be subject to the amendment or revocation—

"(A) from previously registered uses,

"(B) from foreign or United States use of existing stocks permitted under section 6(g), or

"(C) from unavoidable residual environmental contamination.

As soon as residues described in the preceding sentence decrease, the applicable tolerance shall be lowered or the applicable food additive regulation shall be revised accordingly.".

TITLE XI—LIABILITY

SEC. 1101. LIABILITY.

Section 12 (7 U.S.C. 136j) is amended by adding at the end the following:

"(c) PESTICIDE USE.—

"(1) An agricultural producer shall not be liable in any action brought after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 under this Act or any other Federal law for damages caused by pesticide use unless the producer has acted negligently. Proof that an agricultural producer applied a pesticide in accordance with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently.

"(2) An agricultural producer shall not be held liable in an action brought under section 14 for civil penalties for a violation of subsection (a)(2)(F) of this section unless the producer applied the pesticide in a manner inconsistent with its labeling. Proof that a pesticide was applied in a manner consistent with its label instructions shall create a rebuttable presumption that the agricultural producer did not violate such subsection.

"(3) As used in this subsection, the term 'agricultural producer' means a producer of agricultural com-

modities who (A) uses or supervises the use of any pesticide for the production of such commodities on property owned or rented by him or his employer, or (B) without compensation other than the trading of personal services, assists another agricultural producer with the application of pesticides on such producer's land.".

TITLE XII—CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

SEC. 1201. CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS.

(a) DEFINITIONS.—Section 2(e) (7 U.S.C. 136(d)) is amended to read as follows:

"(e) APPLICATOR.—

"(1) COMMERCIAL APPLICATOR.—The term 'commercial applicator' means an applicator (whether or not the applicator is a private applicator with respect to some uses) who, in the ordinary course of business or work, uses or supervises the use of any restricted use pesticide, except antimicrobial products, for any purpose or on any property other than as described in paragraph (2) of this subsection. A commercial applicator must either be certified pursuant to section 4(d) or be registered as a noncertified commercial applicator pursuant to section 4(e). Institutional, industrial, and

governmental employees who apply restricted use pesticides as part of their job responsibilities are included in the term. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act.

"(2) PRIVATE APPLICATOR.—The term 'private applicator' means an applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation (other than trading of personal services between producers of agricultural commodities), on the property of another person. Any private applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any other person is not deemed to be a seller or distributor of pesticides under this Act.

"(3) CERTIFIED APPLICATOR.—The term 'certified applicator' means a commercial or private applicator who is certified under section 4.

"(4) NONCERTIFIED COMMERCIAL APPLICATOR.—The term 'noncertified commercial applicator' means a person who undergoes a training program and registers with a State agency, designated under section 4(a)(2)(A), consistent with the provisions of section 4(e) and who is acting under the direct supervision and the instructions and control of a certified commercial applicator who is available if and when needed, even though such certified commercial applicator is not physically present at the time and place the pesticide is applied.

"(5) NONCERTIFIED PRIVATE APPLICATOR.—The term 'noncertified private applicator' means a person who has undergone training prescribed by section 4(f) and is acting under the direct supervision and instructions and control of a certified private applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

"(6) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered

to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.".

(b) SECTION 4.—Section 4 (7 U.S.C. 136b) is amended—

(1) in subsection (a)(2)(B), by inserting after "legal authority" the following: ", including requirements for State enforcement personnel to be certified in the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility,"; and

(2) by adding at the end the following:

"(d) COMMERCIAL APPLICATOR CERTIFICATION.—Notwithstanding the provisions of subsection (a), in order to operate as a certified commercial applicator a person must, as a minimum—

"(1) within 12 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, undergo training (A) prescribed and administered by the State agency designated under subsection (a)(2)(A), including training which uses updated national core material approved by the Adminis-

trator on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health, and the environment, and (B) conducted by trainers whose competency requirements and range of expertise shall be prescribed by such State agency;

"(2) have field, institutional, or industrial plant experience in pesticide use and application, with the specific category of use and related length of experience commensurate with potential risks and exposure to the applicator and the environment set by such State agency; and

"(3) pass (with not less than 70 percent correct) an exam prescribed by such State agency.

"(e) NONCERTIFIED COMMERCIAL APPLICATOR TRAINING AND REGISTRATION.—In order to operate as a noncertified commercial applicator a person must—

"(1) undergo basic training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1)

and conducted by trainers whose competency requirements and range of expertise shall be prescribed by the such State agency; and

"(2) register with such State agency by providing to the State agency a signed statement from the trainer and the applicator stating that the prescribed minimum training has been provided by the trainer and received by the applicator.

"(f) NONCERTIFIED PRIVATE APPLICATOR TRAINING.—In order to operate as a noncertified private applicator—

"(1) a person must undergo basic training (A) based on materials developed by the State agency designated under subsection (a)(2)(A) on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health and the environment, and (B) given by a certified private applicator or trainer whose competency requirements and range of expertise shall be prescribed by any such State agency; and

"(2) upon request, the employer of a noncertified private applicator must verify by a signed statement from the trainer and the applicator to the delegate State lead pesticide regulatory agency that the training has been given and received.

"(g) CERTIFIED PRIVATE APPLICATOR TRAINING.—Notwithstanding the provisions of subsection (a), in order to operate as a certified private applicator, a person must, at a minimum, undergo training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1) and conducted by trainers whose competency requirement and range of expertise are prescribed by such State agency and registered with such State agency as required by subsection (e)(2).

"(h) RECERTIFICATION AND REREGISTRATION.—All certified applicators and noncertified commercial applicators must undergo, at least every 4 years, refresher training. The refresher training shall be prescribed by the State agency designated under subsection (a)(2)(A), including training in the updated national core materials referred to in subsection (d)(1) and the relevant requirements of this section. At the end of that period, the applicator shall be recertified or reregistered after complying with the relevant competency requirements established in this section.

"(i) UNIFORM TRAINING.—The Administrator shall establish a uniform nationwide course of training that meets the requirements of this section for applicators whose applications will be performed in more than one State. The State agencies designated under subsection (a)(2)(A) of a State, or the Administrator if the State fails to agree on such a program, shall certify or register such applicators.

"(j) MINIMUM STANDARDS FOR TRAINING PROGRAMS.—The Administrator shall establish minimum standards for the training programs and minimum competency standards for trainers referred to in subsections (d), (e), (f), and (g). Training programs prescribed and administered by any State pursuant to such subsections shall comply with the minimum standards established by the Administrator and the requirements of this section within 2 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986. If a State's training program fails to meet minimum standards established by the Administrator, or a State refuses to prescribe and administer such a program, the Administrator shall exercise authority to prescribe and administer the training program referred to in subsections (d), (e), (f), and (g) in such State but only pursuant to the procedures set out in section 27(b).

"(k) PRIVATE TRAINING PROGRAMS.—A State agency designated under subsection (a)(2)(A) shall approve

any privately administered training program that it determines meets the requirements established under this section.

"(l) REFRESHER TRAINING.—A commercial or private applicator certified to use or supervise the use of a restricted use pesticide before a State training program is in effect that complies with subsection (j), shall undergo refresher training and recertification pursuant to subsection (h) not more than 4 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or when required to be recertified by the State, whichever comes first.".

(c) SECTION 26.—Section 26 is amended by adding at the end the following:

"(d) Federal field personnel responsible for enforcement shall be certified in the State for the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility.".

(d) PESTICIDE DEALER.—Section 2 (as amended by section 1002) is amended by adding at the end the following:

"(jj) PESTICIDE DEALER.—The term 'pesticide dealer' means any person who, in the ordinary course of business, sells pesticides, but shall not include retail vendors who solely sell antimicrobials and household nonrestricted use pesticides.".

(e) STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.—Section 11 (7 U.S.C. 136i) is amended by adding at the end the following:

"(c) RECORDS OF COMMERCIAL APPLICATORS.—The Administrator, or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require commercial applicators to maintain records of pesticide applications, including the identity and amount of the pesticides applied, and the date and location of such applications. A commercial applicator shall maintain the records required under this subsection for 2 years.

"(d) RECORDS OF PESTICIDE DEALERS.—The Administrator or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require pesticide dealers to maintain records of restricted use pesticide sales and those nonrestricted pesticides designated by the Administrator because they may cause unreasonable adverse effects on health or the environment, except sales of antimicrobials. Such records shall include the identity of the pesticide, identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of distribution or sale. A pesticide dealer shall maintain the records required under this subsection for 3 years.

"(e) INSPECTION OF RECORDS.—For purposes of enforcing this Act, upon request of the Administrator or the

State agency, whichever has primary enforcement responsibility pursuant to section 26, a commercial applicator and a pesticide dealer shall, upon presentation of proper credentials and a written statement of reasons, furnish or permit the Administrator or the State agency at all reasonable times to have access to, and to copy records maintained pursuant to subsections (c) and (d) of this section.

"(f) Access to Records.—The records required to be kept under subsections (c) and (d) shall be accessible within 30 days of the request. When necessary to protect the public health and in medical emergencies, such records shall be provided immediately, but no later than 24 hours after the request is made. Employees of dealers or commercial applicators shall have access to the records that directly relate to their employment duties. An employer shall know or have access to the brand name and common or chemical name of the pesticide and safety, first aid, and antidote information listed on the label or labeling of any pesticide used and shall be responsible for promptly making such information available, upon request, to an employee exposed to a pesticide and to treating medical personnel. Customers shall have access to the information records that directly relate to pesticides that they have purchased or pesticide applications for which they have contracted. State enforcement agencies shall obtain and make available, upon reasonable requests, records relating to

any pesticide application or sale to any person who may be directly and adversely affected by any such pesticide application or sale.".

(f) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended by adding at the end the following:

"(e) WORKER HEALTH AND SAFETY PROGRAM.—

"(1) The Administrator shall establish and maintain an occupational health program and a separate administrative unit within the Office of Pesticide Programs which shall be responsible for the protection of workers who mix, load, or apply pesticides or work in areas where pesticides are applied. Such unit shall develop and maintain expertise on working conditions and practices of workers exposed to pesticides, participate in the development of regulations, standards, and registration data requirements relating to the health and safety of workers exposed to pesticides, and evaluate registration, reregistration, interim administrative review, and cancellation decisions with respect to effects of such actions on worker health and safety.

"(2) If appropriate and necessary, the Administrator shall issue regulations which require (A) the protection of employees who mix, load, or apply pesticides and employees who work in pesticide-treated areas, including the use of protective clothing and equipment;

emergency medical care, and hygiene, and safe re-entry intervals; and (B) the training of each employee who mixes, loads, or applies a pesticide in worker, public health, and environmental hazards, in clothing and protective equipment, in common symptoms of pesticide poisoning, in the location of emergency medical treatment, and in applicable laws, regulations, and labeling requirements.".

(g) SECTION 12.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by striking out "or" at the end of paragraph (2)(O), by striking out the period at the end of paragraph (2)(P) and inserting in lieu thereof a semicolon, and by adding after paragraph (2)(P) the following:

"(Q) to obtain and to use records acquired under section 11(f) in furtherance of a commercial purpose;

"(R) to violate the regulations issued by the Administrator under section 25(e)(1)(B);".

TITLE XIII—STATE AUTHORITY

SEC. 1301. STATE REGISTRATIONS.

Section 24(c) (7 U.S.C. 136v(c)) is amended—

(1) by striking out in paragraph (1) the period at the end and inserting in lieu thereof a comma and the following: "except that such a registration shall expire

and be of no further effect, without further action by the Administrator—

"(A) at the end of the period, if any, provided as the duration of the registration by the State which approved it, or

"(B) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State that issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect.", and

(2) by adding at the end of paragraph (2) the following: "The Administrator shall establish criteria that define the conditions under which a special local needs registration may be disapproved, taking into account geographic patterns of use.".

TITLE XIV—DEFINITIONS

SEC. 1401. DEFINITIONS.

(a) AMENDMENTS.—

(1) SECTION 2(ee).—Section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) by inserting at the end of clause (1) "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;", and

(B) in clause (3) by inserting after "labeling" the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling; or".

(2) NEW DEFINITION.—Section 2 (as amended by section 1202(d)) is further amended by adding at the end the following:

"(kk) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticide products or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a) (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide which is not registered under this Act.".

(2) Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in subsection (a)(1) by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "to distribute or sell to any person—",

(B) in subsection (a)(2)(F) by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make".

TITLE XV—INFORMATION REQUESTED

SEC. 1501. INFORMATION REQUESTED.

Section 7 (7 U.S.C. 136e) is amended by adding at the end the following:

"(f) INFORMATION REQUESTED.—Consistent with section 3507(a)(1) of title 44, United States Code, the Administrator shall make efforts to catalogue and retrieve data in such manner as to eliminate or reduce additional information requests from registrants, particularly those requests which require the submission of duplicate confidential data.".

TITLE XVI—STATE COOPERATION, AID, AND TRAINING

SEC. 1601. COOPERATIVE AGREEMENTS.

Section 23(a) (7 U.S.C. 136u) is amended to read as follows:

"(a) COOPERATIVE AGREEMENTS.—

"(1) The Administrator may enter into cooperative agreements with States and Indian tribes to provide an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator. There are authorized to be appropriated such sums as may be necessary for such cooperative agreements.

"(2) The Administrator may enter into cooperative agreements with States and Indian tribes to provide an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator. There are authorized to be appropriated such sums as may be necessary for such cooperative agreements.".

TITLE XVII—SCIENTIFIC ADVISORY PANEL

SEC. 1701. TERM.

Section 25(d) (& U.S.C. 136w) is amended—

(1) by striking out "7 members" and inserting in lieu thereof "9 members", and

(2) by striking out the sentence beginning "The advisory panel established".

TITLE XVIII—STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1801. AUTHORITY FOR EPA ACTION.

The second sentence of section 27(a) (7 U.S.C. 136w–2) is amended to read as follows: "If a State—

"(1) does not promptly initiate appropriate investigative action after receiving such referral, or

"(2) does not initiate appropriate enforcement action within 90 days of receipt of such referral,

the Administrator may act upon such complaint or information in accordance with this Act.".

TITLE XIX—UNLAWFUL ACTS

SEC. 1901. UNLAWFUL ACTS.

(a) Section 12(a).—Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 1202) is amended—

(1) by amending paragraph (1)(A) to read as follows:

"(A) any pesticide product which is not registered under section 3 or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;";

(2) by amending paragraph (2)(B) to read as follows:

"(B) to refuse to (i) prepare, maintain, or submit any records required by or under this Act, (ii) submit any reports required by or under this Act, or (iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(3) by amending paragraph (2)(K) to read as follows:

"(K) to violate any cancellation order issued under this Act;";

(4) in paragraph (2)(M) by striking out "section 8" and inserting in lieu thereof "this Act"; and

(5) by adding at the end the following:

"(S) to willfully falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or

opinion formed submitted to the Administrator, or which the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

"(T) to willfully submit data known to be false to the Administrator in support of a registration; or

"(U) to violate any regulation issued under section 3(a), 4(a), 10(e), 17(c), 17(e), 19(a), or 25(c) of this Act.".

(b) ACTS OF OFFICERS, AGENTS, ETC.—

(1) Section 12 (7 U.S.C. 136j) (as amended by section 1101) is amended by adding at the end the following:

"(d) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.".

(2) Paragraph (4) of section 14(b) (7 U.S.C. 136l) is repealed.

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TITLE XX—PENALTIES

SEC. 2001. PENALTIES.

(a) SECTION 14(a).—Section 14(a) (7 U.S.C. 136l(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or pesticide testing facility that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $25,000 for each offense. If a registrant, applicant for a registration, or pesticide testing facility violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $50,000 for such subsequent violation.

"(B) Any commercial applicator of restricted use pesticides, any wholesaler, dealer, or retailer of pesticides, or any person who distributes or sells pesticides or devices that violate any provision of this Act may be assessed a civil penalty by the Administrator of not more than $10,000 for each offense. If a commercial applicator of restricted use pesticides or a wholesaler, dealer, retailer, or person who distributes or sells pesticides

or devices violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $20,000 for such subsequent violation."

(2) by amending paragraph (2) to read as follows:

"(2) PRIVATE APPLICATOR.—Any private applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation and any other person not included in paragraph (1) that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If such a person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for such subsequent violation. The Adminstrator may waive the requirement for a warning or citation for a first offense by a private applicator if the Administrator determines that the violation was intentional or caused significant harm to health or the environment.",

(3) by adding at the end of paragraph (3) the following: "If the person neither resides nor has his principal place of business in the United States, the Ad-

ministrator may designate a site for the hearing in the United States that is reasonably convenient for the parties.", and

(4) in the first sentence of paragraph (4) by inserting "the economic benefit (if any) resulting from the violation," after "to continue in business,".

(b) SECTION 14(b).—

(1) Section 14(b)(1) (7 U.S.C. 1361(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or pesticide testing facility that knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than one year, or both.

"(B) Any commercial applicator of a restricted use pesticide, any wholesaler, dealer, or retailer of a pesticide, or any person who distributes or sells pesticides or devices that knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than one year, or both.".

(2) Section 14(b)(2) is amended (A) by striking out "$1,000" and inserting in lieu thereof "$2,000,

and (B) by striking out "30" and inserting in lieu thereof "60".

(c) SUBPOENAS.—Section 14(a) is amended by adding at the end the following:

"(6) SUBPOENAS.—The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.".

TITLE XXI—CONGRESSIONAL REVIEW

SEC. 2101. CONGRESSIONAL REVIEW.

Section 25(a)(4) (7 U.S.C. 136w(a)(4)) is amended to read as follows—

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until

the passage of 60 calendar days after the rule or regulation is so transmitted.".

TITLE XXII—REVIEW OF REGULATIONS

SEC. 2201. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

"(e) REVIEW OF REGULATIONS.—

"(1) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or any refusal of a petition to modify or rescind such a regulation shall be reviewable only as provided by this paragraph. Any person may obtain judicial review of such a regulation or refusal by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia. Any petition under this paragraph for review of a regulation shall be filed within 60 days from the date of promulgation of the regulation as determined by the Administrator in the Federal Register. Any petition under this paragraph for review of a refusal to modify or rescind a regula-

tion shall be filed within 60 days after such refusal. The scope of review shall be as specified in section 706 of title 5, United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of the regulation.

"(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act or any appeal therefrom or in any proceeding under section 13, 14, or 16(c) or any appeal therefrom.".

TITLE XXIII—DELEGATION AND COOPERATION

SEC. 2301. DELEGATION AND COOPERATION.

Section 22 (7 U.S.C. 136t) is amended by adding at the end the following:

"(c) EFFECT ON CERTAIN OTHER LAWS.—In exercising any authority under this Act, the Administrator shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The Administrator and the Secretary of Labor

shall coordinate their effort to regulate pesticide use in the work place so as to avoid duplicative and conflicting regulation.".

TITLE XXIV—INDEMNITIES

SEC. 2401. REPORT BY EPA.

Section 15 (7 U.S.C. 136m) is amended by adding at the end the following:

"(c) REPORT.—If the Administrator has taken an action which under subsection (a) requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate—

"(1) the action taken that requires the payment of indemnification,

"(2) the reasons for taking such action,

"(3) the estimated cost of the payment,

"(4) the effect such payment would have on the budget of the Administrator to implement this Act without a specific additional appropriation for the payment, and

"(5) a request for the appropriation of funds for such payment.".

TITLE XXV—RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER

SEC. 2501. DEFINITION OF GROUNDWATER.

Section 2 (7 U.S.C. 136) (as amended by section 1401) is amended by adding at the end thereof the following new subsection:

"(ll) GROUNDWATER.—The term 'groundwater' means water below the land surface in a zone of saturation."

SEC. 2502. PROTECTION OF GROUNDWATER.

The Act (as amended by section 601) is amended by inserting after section 31 the following new section:

"SEC. 32. PROTECTION OF GROUNDWATER.

"(a) NOTIFICATION.—

"(1) REQUIREMENT.—

"(A) When a registrant of a pesticide obtains confirmed information while conducting monitoring required by the Administrator, on his own initiative, or from another person that the pesticide has been—

"(i) detected in groundwater for the first time after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Amendments of 1986, or

"(ii) detected in groundwater equal to or greater than a concentration at or greater than the groundwater action level established under subsection (c),

the registrant shall notify the Administrator of such information within 15 working days of obtaining such information and shall make the notification required by subparagraph (B).

"(B) The registrant shall also notify the Administrator of further information on confirmed detection and nondetection of the pesticide in groundwater, including resampling information, as the Administrator may require, taking into account the requirement to make the findings described in subsection (d).

"(2) CONTENT OF NOTIFICATION.—A notification made under paragraph (1) shall contain confirmed information known to the registrant on the level of pesticide detection, the frequency of detection, the location (including depth) of the detection, the date of the detection, well construction if detected in a well, and quality assurance and control procedures employed in making the detection, including the specificity and limit of detection of the method used in making the detection.

"(b) INVESTIGATION AND MONITORING.—

"(1) INVESTIGATION.—Upon receiving notification under subsection (a) from any person of confirmed information on detection of a pesticide in groundwater, the Administrator shall review the nature and extent of the presence of the pesticide in groundwater to determine whether further action should be taken under this Act.

"(2) MONITORING.—If the Administrator determines that additional data on the presence of a pesticide in groundwater are required to maintain in effect an existing registration of the pesticide, the Administrator may, under section 3(c)(2)(B), require registrants of the pesticide to conduct groundwater monitoring. Monitoring shall be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator. The Administrator shall, in consultation with the Secretary of Agriculture, consider all relevant information in determining appropriate monitoring, including the magnitude and frequency of the detection, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction, rates of degradation, reliability and analytical accuracy of the detection, and whether the groundwater for which monitoring is re-

quired is a current or potential source for human consumption.

"(3) JUDICIAL REVIEW.—Monitoring requirements shall be subject to judicial review pursuant to section 16(a).

"(c) GROUNDWATER ACTION LEVELS.—

"(1) REQUIREMENT.—

"(A) GENERAL RULE.—After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall establish a groundwater action level which shall guide regulatory action under this section. In establishing the groundwater action level under clauses (ii) and (iii) of subparagraph (B), the Administrator shall consider the level of the pesticide in potable water at which no known or anticipated adverse effects on the health of persons occur, the need for an adequate margin of safety, and the validity, completeness, and adequacy of data about the pesticide.

"(B) GROUNDWATER ACTION LEVELS.—The groundwater action levels are as follows:

"(i) If the Administrator has promulgated a maximum contaminant level for a pesticide in drinking water supplied by

public water systems under section 1412(b)(3) of the Public Health Service Act, the groundwater action level shall be the maximum contaminant level.

"(ii) If a maximum contaminant level has not been promulgated and the Administrator has calculated a health advisory level for a pesticide in drinking water under section 1442 of the Public Health Service Act, the groundwater action level shall be the health advisory level until a maximum contaminant level has been promulgated.

"(iii) If a maximum contaminant level or health advisory level has not been established under title XIV of the Public Health Service Act or is not established under such title within 60 days of the Administrator receiving confirmed information that a pesticide has been detected in groundwater, not later than 90 days after receiving such confirmed information of a detection, the Administrator shall promulgate an interim groundwater action level by informal rulemaking. If all required chronic, oncogenicity, reproduction, or teratogenicity data are

absent for the pesticide, the interim groundwater action level for the pesticide shall be at the lowest level of detection. If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent for the pesticide, the interim groundwater action level for the pesticide shall include an additional margin of safety that takes into account the absence of such data. The interim groundwater action level shall remain effective until a maximum contaminant level or health advisory level for the pesticide is established under title XIV of the Public Health Service Act and implemented under clause (i) or (ii).

"(2) FINAL AGENCY ACTION.—The Administrator shall publish in the Federal Register all groundwater action levels, which, with respect to clause (ii) or (iii), shall constitute final agency action judicially reviewable pursuant to section 16.

"(d) FINDINGS.—

"(1) REQUIREMENT.—After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall promptly issue findings whether—

"(A) there is a reasonable likelihood that the groundwater action level will be exceeded in groundwater at a current or potential point of human consumption, and

"(B) the presence of the pesticide in groundwater was a result of pesticide use in compliance with this Act.

"(2) PROCEDURES.—Findings under paragraph (1) shall be published in the Federal Register. In making the finding under paragraph (1)(A), the Administrator shall consult with the Secretary of Agriculture and appropriate Federal and State agencies in determining potential points of human consumption. The finding under paragraph (1)(B) shall not delay or preclude registration amendments under subsection (e).

"(e) REGISTRATION AMENDMENTS.—

"(1) REQUIREMENT.—

"(A) CURRENT POINTS OF HUMAN CONSUMPTION.—After making the finding under subsection (d)(1)(A), the Administrator shall, with respect to a current point of human consumption, promptly require amendments to the registration of the pesticide with respect to which the finding was made that are necessary to ensure that use of the pesticide in accordance with the amended reg-

istration will not cause the groundwater action level involved in the finding to be exceeded at a current point of human consumption and shall notify registrants of such amendments. Registration amendments may include—

"(i) limitations on the purposes for which a pesticide may be used, considering factors such as environmentally sensitive areas and conditions,

"(ii) limitations on the rate at which the pesticide is applied,

"(iii) limitations on the time or frequency of pesticide use,

"(iv) limitations on the method of pesticide use,

"(v) reporting or other requirements, including label changes or changes in classification,

"(vi) requirements for the training or certification of pesticide applicators or other persons using the pesticide, or

"(vii) any other requirement to ensure that the applicable groundwater action level will not be exceeded.

The registration amendments shall be directed to the same or similar uses of the pesticide, geographical and hydrogeological areas, and other conditions that led to the findings under subsection (d)(1)(A). In requiring such amendments, the Administrator shall consider the effect of any voluntary actions by registrants or other persons to prevent the action level from being exceeded.

"(B) POTENTIAL POINTS OF HUMAN CONSUMPTION.—After making the findings under subsection (d)(1)(A) with respect to a potential point of human consumption, the Administrator shall promptly require amendments to the registration that are necessary to ensure that use of the pesticide involved in the finding in accordance with the amended registration will not cause the groundwater action level to be exceeded at a potential point of human consumption and shall notify registrants of such amendments. In establishing such amendments, the Administrator shall—

"(i) meet the requirements of subparagraph (A),

"(ii) take into account when such potential points of human consumption will likely be used, and

"(iii) consider the views of the Secretary of Agriculture and other appropriate Federal and State agencies.

"(2) PROCEDURES.—Registration amendments shall be imposed in accordance with the procedures established by section 6(b).

"(f) USE PROHIBITION.—

"(1) REQUIREMENT.—After receiving confirmed information that a pesticide, as a result of use, has been detected above the groundwater action level at a current point of human consumption, the Administrator shall immediately notify the registrant and the Secretary of Agriculture and shall, within 30 days after providing such notice—

"(A) require registration amendments as described in subsection (e)(1)(A) if the registrant can demonstrate during such 30 days with reasonable certainty that such amendments will bring and retain concentrations of the pesticide at or below the groundwater action level at points of human consumption, or

"(B) prohibit use in the surface and subsurface area surrounding the point of human consumption through which the pesticide is reasonably likely to move toward and reach such point of human consumption and require monitoring at other similar locations under subsection (b)(2).

The Administrator shall publish the action in the Federal Register and take appropriate steps to inform all registrants, potentially affected persons, and interested members of the public. Such notice shall specify the factual findings and conclusions relied upon in support of the decision. Persons adversely affected by any use prohibition required under subparagraph (B) shall have an opportunity, in accordance with paragraph (2), for an expedited hearing.

"(2) HEARING.—If any person adversely affected by a use prohibition requests within 5 days after publication of the notice under paragraph (1) a hearing on the use prohibition, the Administrator shall hold a hearing in accordance with the procedures in section 6(c). If a hearing is requested, it shall be completed and the Administrator shall issue within 90 days a final order continuing or discontinuing the use prohibition. The use prohibition shall be effective until the Administrator enters a final order after the hearing. In

the hearing the Administrator shall have the burden of proving with reasonable certainty that—

"(A) the groundwater action level has been exceeded in groundwater at a current point of human consumption, and

"(B) the use prohibition is directed to the use at the location or locations described in paragraph (1)(B) where the groundwater action level was exceeded.

In the hearing the registrant shall have the burden of proving with reasonable certainty that registration amendments will bring and retain concentrations of the pesticide at or below the action level at points of human consumption.

"(3) TERMINATION OF USE PROHIBITION.—Upon petition to the Administrator by a registrant or other interested person, a use prohibition shall be discontinued if the petitioner establishes with reasonable certainty that concentrations of the pesticide are at or below the groundwater action level in groundwater at points of human consumption and will remain at or below such level.

"(4) JUDICIAL REVIEW.—The Administrator's action or failure to act under this subsection shall be subject to judicial review under section 16(a).

"(g) SPECIAL REVIEW.—Immediately upon receiving confirmed information that a pesticide has been detected above the groundwater action level in groundwater not at current or potential points of human consumption, the Administrator shall initiate an interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(h) OTHER AUTHORITY.—Nothing in this section prohibits or restricts any other authority of the Administrator under this Act.".

TITLE XXVI—AUTHORIZATION FOR APPROPRIATIONS

SEC. 2601. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1986, section 33 (7 U.S.C. 136y) (as redesignated by section 601(b)) is amended to read as follows:

"SEC. 33. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 23 and 31) $ for fiscal year 1987, $ for fiscal year 1988, $ for fiscal year 1989, and $ for fiscal year 1990.".

TITLE XXVII—MISCELLANEOUS

SEC. 2701. IR4 PROGRAM.

Section 2(c) of the Act of August 4, 1965 (7 U.S.C. 450i(c)) is amended by inserting before the first sentence after paragraph (2) the following: "The Secretary in making grants under paragraph (2)(B) shall provide support for the interregional project number 4 program (commonly referred to as the 'IR4 program').".

SEC. 2702. PESTICIDE RISK RATING.

(a) STUDY.—Subject to subsection (b), the Administrator shall contract with the Board of Agriculture of the National Academy of Sciences to conduct a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural commodities. Such risk rating shall include methods of application, chronic and acute toxicity, and anticipated losses to and persistence in the environment. In conducting the study, the National Academy of Sciences shall seek input from recognized public and private sector scientists and provide opportunity for public comment on the preliminary findings relating to the development of a risk rating. The National Academy of Sciences shall report the findings of such study to the Administrator and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture,

Nutrition and Forestry of the Senate within 18 months of the date of the enactment of this Act.

(b) LIMITATION.—The study required by subsection (a) shall be conducted at such cost as the Administrator, in consultation with the National Academy of Sciences, may establish.

(c) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 2703. STUDY.

The Administrator shall study and report to Congress within one year of the date of the enactment of this Act on the pesticide volume, use sites, and target insects for non-agricultural pesticides.

SEC. 2704. DEFINITION.

Section 2(bb) (7 U.S.C. 136(bb)) is amended by inserting after "man" the following: ", including unborn human beings from the moment of conception,".

TITLE XXVIII—CLARIFYING AND TECHNICAL AMENDMENTS

SEC. 2801. CLARIFYING AMENDMENTS.

(a) SECTION 3.—

(1) Section 3(a) (7 U.S.C. 136a(c)) is amended by adding at the end the following: "To the extent nec-

essary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use of any pesticide which is not registered under this Act and which is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.".

(2) Section 3(d) (7 U.S.C. 136a(d) is amended—

(A) in the second sentence, by inserting "or reclassified" after "classified" each time it appears and by striking out "on the initial classification"; and

(B) in paragraph (1)(C), by striking out the colon preceding clause (i) and inserting in lieu thereof a period, by striking out clause (i), by striking out "(ii)", by striking out the last sentence, and by running in the material after "restricted use." so that the margin is the same as the margin of paragraph (1)(C).

(b) S*ECTION 4.—The last sentence of section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended by inserting "by regulation" after "may".*

(c) S*ECTION 7.—Section 7(c) (7 U.S.C. 136e(c)) is amended—*

(1) by striking out "shall inform the Administrator" and inserting in lieu thereof "shall, in accordance

with regulations promulgated by the Administrator, submit to the Administrator a report",

(2) by striking out "of the" and inserting in lieu thereof "describing", and

(3) by striking out "information" and inserting in lieu thereof "report".

(d) SECTION 25.—Section 25(c) (7 U.S.C. 136w(c)) is amended—

(1) by inserting "or by regulation" after "hearing", and

(2) in paragraph (5), by striking out "prescribe regulations requiring" and inserting in lieu thereof "require".

SEC. 2802. TECHNICAL AMENDMENTS.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) by striking out in subsection (a) ": Provided, That" and inserting in lieu thereof ", except that", by striking out "(1)(a)", by striking out "or (b)", and by striking out "(2) that" and inserting in lieu thereof "that", and

(2) by striking out in subsection (ee) ": Provided, That the term" and inserting in lieu thereof ", except that the term", by striking out "or" before clause (3), by striking out ": Provided further, That the term also

shall not include" and inserting in lieu thereof ", (4)", by striking out "or any use" and inserting in lieu thereof "or (5) any use", and by striking out ": And provided further, That after" and inserting in lieu thereof a period and "After".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended—

(1) by striking out ": Provided, That such" in subsection (c)(1)(D)(i) and inserting in lieu thereof a period and "Such",

(2) by striking out ": Provided, That the" in subsection (c)(2)(B)(iv) and inserting in lieu thereof a period and "The" and by striking out "subsection (c)(1)" in subsection (c)(2)(B)(v) and inserting in lieu thereof "paragraph (1)",

(3) by striking out "subsection (c)(5) of this section" in subsection (c)(7) each place it occurs and inserting in lieu thereof "paragraph (5)" and by striking out ": Provided, That a" in subsection (c)(7)(C) and inserting in lieu thereof a period and "A",

(4) by striking out ", provided that if" in subsection (d)(1)(A) and inserting in lieu thereof a period and "If", by striking out ": Provided, however, That the" in such subsection and inserting in lieu thereof a

period and "The", and by inserting "as follows" before the colon in subsection (d)(1)(C),

(5) by striking out ": Provided, That as" in subsection (f)(1) and inserting in lieu thereof a period and "As", and

(6) by striking out ": Provided, That, to" in subsection (g) and inserting in lieu thereof a period and "To".

(c) SECTION 4.—Section 4 (7 U.S.C. 136b) is amended—

(1) by striking out ": Provided, however, That the" in subsection (g) and inserting in lieu thereof a period and "The", and

(2) by striking out ": Provided, That such" in subsection (g) and inserting in lieu thereof a period and "Such".

(d) SECTION 5.—Section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6(e) (7 U.S.C. 136d(r)) is amended by striking out ": Provided, That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10 (7 U.S.C. 136h) is amended—

(1) by striking out ": Provided, That the" in subsection (d)(1) and inserting in lieu thereof a period and "The",

(2) by striking out ": Provided further, That this" in subsection (d)(1) and inserting in lieu thereof a period and "This", and

(3) by striking out ": Provided, That where" in subsection (d)(3) and inserting in lieu thereof a period and "Where".

(g) SECTION 12.—Section 12(a)(2)(F) is amended by striking out ": Provided, That it" and inserting in lieu thereof a period and "It".

(h) SECTION 13.—Section 13(c) (7 U.S.C. 136k(c)) is amended by striking out ": Provided, That upon" in subsection (d)(1) and inserting in lieu thereof a period and "Upon".

(i) SECTION 14.—Section 14(a)(1) (7 U.S.C. 136l(a)(1)) is amended by striking out ": Provided, That any" in subsection (d)(1) and inserting in lieu thereof ", except that any".

(j) SECTION 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The", and

(2) by striking out ": And provided further, That all" in subsection (c)(1)(D)(i) and inserting in lieu thereof a period and "All".

(k) Section 18.—The heading for section 18 (7 U.S.C. 136p) is amended by inserting ***"AND STATE"*** *after* ***"FEDERAL"*** *and the second sentence is run in after the first sentence.*

TITLE XXIX—TABLE OF CONTENTS AMENDMENTS

SEC. 2901. TABLE OF CONTENTS.

The table of contents contained in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by striking out the item relating to section 2(e) and inserting in lieu thereof the following:

"(e) Applicator.
  "(1) Commercial applicator.
  "(2) Private applicator.
  "(3) Certified applicator.
  "(4) Noncertified commercial applicator.
  "(5) Noncertified private applicator.
  "(6) Under the direct supervision of a certified applicator.";

(2) by striking out the item relating to section 2(n) and inserting in lieu thereof the following:

"(n) Ingredient statement.

(3) by adding at the end of the items relating to section 2 the following:

"(ff) Outstanding data requirement.
  "(1) In general.
  "(2) Factors.
"(gg) Antimicrobial.
"(hh) Pesticide testing facility.
"(ii) Importing country.

"(jj) Pesticide dealer.
"(kk) To distribute or sell.
"(ll) Groundwater.";

(4) by striking out the item relating to section 3(a) and inserting in lieu thereof the following:

"(a) Requirement of registration.";

(5) by striking out the item relating to section 3(c)(8) and inserting in lieu thereof the following:

"(8) Interim administrative review.
  "(A) In general.
  "(B) Criteria for initiating an interim administrative review.
  "(C) Review requirement.
  "(D) Pre-review notice procedures.
  "(E) Notice.
  "(F) Review procedure.
  "(G) Judicial review.";

(6) by adding at the end of the items relating to section 3(c) the following:

"(9) Preregistration access to data.";

(7) by striking out the item relating to section 3(g);

(8) by inserting after the items relating to section 3 the following:

"Sec. 3A. Reregistration of registered pesticides.
  "(a) General rule.
  "(b) Special authorities of E.P.A.
    "(1) Guidelines.
    "(2) Monitoring.
    "(3) Suspensions and penalties.
  "(c) Reregistration phases.
  "(d) Phase one.
    "(1) Priority for reregistration.
    "(2) Reregistration lists.
    "(3) Judicial review.
    "(4) Notice to registrants.
  "(e) Phase two.
    "(1) In general.
    "(2) Notice of reregistration.
    "(3) Missing or inadequate data.
    "(4) Time periods.

"(5) Cancellation and removal.
"(f) Phase three.
"(1) Data information.
"(2) Time periods.
"(g) Phase four.
"(1) Independent review and identification of outstanding data requirements.
"(2) Time periods.
"(h) Phase five.
"(1) Data review.
"(2) Reregistration and other actions.
"(A) Reregistration.
"(B) Other action.
"(i) Compensation and data submitter.
"(j) Fees.
"(1) Initial fee for food or feed pesticide active ingredients.
"(2) Final fee for food or feed pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Other fees.
"(6) Apportionment.
"(k) Revolving fund.
"(l) Judicial review.";

(9) by adding at the end of the items relating to section 4 the following:

"(d) Commercial applicator certification.
"(e) Noncertified commercial applicator training and registration.
"(f) Noncertified private applicator training.
"(g) Certified private applicator training.
"(h) Recertification and reregistration.
"(i) Uniform training.
"(j) Minimum standards for training programs.
"(k) Private training programs.
"(l) Refresher training.";

(10) by striking out the items relating to section 6(a)(1) and 6(a)(2);

(11) by striking out the item relating to section 6(b) and inserting in lieu thereof the following:

"(b) Cancellation and change in classification or labels.
"(1) Notice of cancellation or change in classification.
"(2) Hearing.
"(3) Factors.
"(4) Label changes.";

(12) by striking out the item relating to section 6(f) and inserting in lieu thereof the following:

"(f) Hearing procedures after interim administrative review.
"(1) Request for hearing.
"(2) Procedures.
"(g) General provisions.
"(1) Voluntary cancellation.
"(2) Publication of notice.
"(3) Existing stocks.
"(4) Additional information.
"(h) Cancellation of registration based on false or invalid data.
"(1) Notice.
"(2) Invalid data.
"(3) False data.
"(4) Hearing.
"(i) Judicial review.";

(13) by adding at the end of the items relating to section 7 the following:

"(e) Fact sheets.
"(f) Information requests.";

(14) by striking out the items relating to section 8 and inserting in lieu thereof the following:

"Sec. 8. Records.
"(a) Authority to require records.
"(b) Limitations.";

(15)(A) by amending the item relating to section 9(a) to read as follows:

"(a) Authority to enter, inspect, and copy."; and

(B) by adding at the end of the items relating to section 9 the following:

"(d) Procedure.
"(e) Coordination.";

(16) by adding at the end of the items relating to section 10 the following:

"(h) Data disclosure to States.
"(1) In general.

"(2) Action for just compensation.";

(17) by adding at the end of the items relating to section 11 the following:

"(c) Records of commercial applicators.
"(d) Records of pesticide dealers.
"(e) Inspection of records.
"(f) Access to records.";

(18) by adding at the end of the items relating to section 12 the following:

"(c) Pesticide use.
"(d) Acts of officers, agents, etc.";

(16) by adding at the end of the items relating to section 14(a) the following:

"(6) Subpoenas.";

(19) by striking out the item relating to section 14(b)(4);

(20) by adding at the end of the items relating to section 15 the following:

"(c) Report.";

(21) by adding at the end of the items relating to section 16 the following:

"(e) Review of regulations.";

(22) by striking out the items relating to subsections (a) and (b) of section 17 and inserting in lieu thereof the following:

"(a) Pesticides and devices intended for export.
    "(1) Violations.
    "(2) Exports.
    "(3) Notification.
    "(4) Labels.
"(b) Cancellation notices furnished to foreign governments.
    "(1) Issuance.

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"(2) Contents.";

(23) by adding at the end of the items relating to section 17 the following:

"(f) Tolerances for agricultural commodities.
"(1) Registration.
"(2) Amendment of tolerance or regulation.";

(24) by adding at the end of the items relating to section 22 the following:

"(c) Effect on certain other laws.";

(25) by adding at the end of the items relating to section 25(a) the following:

"(4) Congressional review of regulations.";

(26) by adding at the end of the items relating to section 25 the following:

"(e) Worker health and safety program."; and

(27) by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Collection, dissemination, and utilization of data.
"(a) Data systems.
"(b) Data retrieval.
"(c) Index.
"(d) Report.
"(e) Confidentiality.
"(f) Authorization.
"Sec. 32. Protection of groundwater.
"(a) Notification.
"(1) Requirement.
"(2) Content of notification.
"(b) Investigation and monitoring.
"(1) Investigation.
"(2) Monitoring.
"(3) Judicial review.
"(c) Groundwater action levels.
"(1) Requirement.
"(A) General rule.
"(B) Groundwater action levels.
"(2) Final agency action.
"(d) Findings.
"(1) Requirement.

"(2) Procedures.
"(e) Registration amendments.
"(1) Requirement.
"(A) Current points of human consumption.
"(B) Potential points of human consumption.
"(2) Procedures.
"(f) Use prohibition.
"(1) Requirement.
"(2) Hearing.
"(3) Termination of use prohibition.
"(4) Judicial review.
"(g) Special review.
"(h) Other authority.
"Sec. 33. Authorization for appropriations.".

TITLE XXX—EFFECTIVE DATE

SEC. 3001. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect upon the expiration of 60 days after the date of the enactment of this Act.

○

SUMMARY OF H.R. 2482, AS REPORTED BY THE SUBCOMMITTEE ON DEPARTMENT OPERATIONS, RESEARCH, AND FOREIGN AGRICULTURE

MAY 14, 1986

Title I--Preregistration Access to Data

These provisions would amend section 3(c) of the FIFRA to allow public access to registration application data before EPA makes its registration decision, and provide for public comment on the application (currently, such information is not made public until 30 days after the registration is granted). Restrictions and penalties on data disclosed or used in furtherance of commercial purposes would protect confidential business information to preserve the proprietary rights of the registrant.

Title II--Conditional Registration

These provisions would amend section 3(c)(7) of the Act to restrict conditional registrations to those cases where the necessary data are being developed, or have been submitted to support the registration, especially if missing data concern possible chronic effects (e.g. animal cancer studies). Conditional registrations could not be granted to pesticides undergoing interim administrative review by EPA. Minor food and feed uses could receive special consideration by EPA if no effective alternative pesticide is available.

Title III--Registration & Fees

These provisions would amend section 3 of the Act to require that reregistration be completed in accordance with a new section 3A. Under new section 3A there would be five stages of registration:

(1) EPA would identify active ingredients which have not completed registration standard review (approximately 480 chemicals), in three separate groups of 150, 150, and 180 (groupings are to avoid bunching of the workload).

(2) the registrant would identify data gaps and clearly inadequate studies and agree to furnish these data to EPA (this will indicate the registrant's willingness to participate in reregistration). The data must be submitted within four years or less.

(3) the registrant would review its data about a pesticide, reformat certain key studies, and generally resubmit data to support registration to EPA. Key studies submitted before January 1, 1982 will be reformatted according to guidelines developed by EPA to facilitate review of the data. The registrant will submit these reformatted studies and other data within one year.

(4) EPA would review the data within 18 months for the first group (24 and 33 months for the later groups) and decide whether to reregister the product or to require further data. The data must be submitted in four years or less.

(5) after submission of all required data, EPA would make a reregistration decision within one year.

A one-time fee of $150,000 would be charged for the reregistration of each active ingredient. $50,000 of the fee would be paid when a desire to reregister is first indicated by the identification of missing and clearly inadequate studies, and $100,000 would be paid when the reregistration data package is submitted. Fees for non-food pesticides could be reduced, but not less than one-half of these amounts. For minor use pesticides, the Administrator could waive or reduce the reregistration fee.

If the registrant that owns the data decides not to pursue reregistration at any stage, other persons seeking to use the data could do so if they agree to the FIFRA data compensation provisions.

Title IV--Inert Ingredients

These provisions would amend sections 2 and 3(c) of the Act to give EPA explicit authority to review the inert ingredients of pesticide formulations and require health and safety data from registrants and producers of the inert ingredient.

Ingredient statements would be required to contain the name of each inert ingredient in a pesticide that the Administrator determines must appear in the ingredient statement because of the hazard that may be posed by the use pattern and concentration level of the inert ingredient in the pesticide.

Title V--Public Right-to-Know

These provisions would amend section 3(c) of the Act to require that registrants of pesticides provide the Administrator with fact sheets summarizing relevant health, safety, and environmental data. The fact sheets would be made available to the public by the Administrator. A list of locations where pesticides are produced would also be made available to the public under this provision.

Title VI--Data Disclosure to the States

These provisions would amend section 10 of the Act to allow the Administrator to disclose data and information to States if protection with respect to disclosure will be no less than the protection under FIFRA. EPA would also be required to develop a computerized data retrieval system to facilitate data sharing.

Title VII--Cancellation Procedures

These provisions would amend sections 3(c)8 and 6 of the Act to specify procedures for expediting an interim administrative review (Special Review) of a pesticide and cancellation hearings that may follow a review. Special Reviews would not be delayed due to lack of exposure data, although currently available exposure data could be considered in the decision to initiate a review. After a review is initiated, comments could be submitted to EPA, but any person submitting comments would be required to disclose all known scientific data concerning the toxicity, exposure, and benefits of the pesticide. Failure to make full disclosure if asked for more information by EPA could jeopardize later rights to ask for a cancellation hearing. Special reviews would be required to be completed in eighteen months; this period could be extended for another year if more time is needed to develop critical information.

If the result of the Special Review is a decision by EPA to cancel a pesticide product, any adversely affected party who previously submitted comments in the review could ask for a hearing. Prehearing activities, the presentation of evidence, and examination of witnesses is to be completed within certain deadlines, and the hearing would be completed (including a final decision by the Administrator) in a total of 240 days. This period could be extended for up to 180 days if necessary for a fair and accurate determination of pivotal facts central to the proceeding.

EPA would also be allowed to require label changes for a pesticide through informal rulemaking if necessary to prevent the use of the pesticide from causing unreasonable adverse effects on environment. This would be allowed only if the rulemaking would not delete the use of the pesticide on a particular crop or site, or otherwise make the pesticide product unmarketable.

Title VIII--False and Invalid Data

These provisions would amend section 6 of the Act to allow EPA to move to immediately suspend products which were registered with false or invalid data. Amendments to section 8 of the Act would also be made to authorize EPA to require certain recordkeeping information necessary for the effective implementation of FIFRA.

Title IX--Inspections

These provisions would amend section 9 of the Act to allow EPA, at reasonable times to enter, inspect, and take samples where pesticides are sold. Certain records at pesticide production establishments could be copied. Pesticide testing facilities could be inspected, and the Administrator would be authorized to enter places where there is probable cause to believe the Act is being violated.

Title X--Export of Pesticides

These provisions would amend sections 2 and 17 of the Act to require that label precautions required in the United States be on the label of exported pesticides (unless this violates the laws of the importing country). For pesticides not registered in the U.S., or cancelled, suspended, or restricted, prior notification would be given to the importer and government officials in the importing country. Notification would be given before the first shipment of each year. Information about EPA decisions to cancel or reclassify (as restricted use) pesticides would be transmitted to appropriate government officials of foreign countries. This information would be sent when the EPA decision is made and annually thereafter.

Tolerances for pesticides cancelled, suspended, or withdrawn would be revoked within 60 days of such action to prevent residues of these products from entering this country on imported commodities (unless the concerns were environmental only - such as unique American ecological concerns, or taken for economic reasons - such as prohibitive data development costs).

Title XI--Liability

These provisions would amend section 12 of the Act to provide that an agricultural producer will not be liable in any action brought under FIFRA or any other Federal law for damages caused by pesticides unless the producer acted negligently. Proof that label directions were followed would create a rebuttable presumption that the producer did not act negligently. An agricultural producer would also not be held liable for civil penalties under FIFRA unless a pesticide is applied in a manner inconsistent with its labeling.

Title XII--Certification, Training, and Recordkeeping

These provisions would amend sections 2 and 4 of the Act to require that all commercial applicators receive training about the safe use of pesticides. States would oversee the training programs, providing the training through State programs or through the certification of private programs which would meet certain standards.

Commercial applicators would have to take refresher courses at least every four years, and will be required to maintain records of pesticide use for at least two years.

EPA would be required to establish an occupational health program within the pesticide program office, and if appropriate and necessary, issue regulations to protect employees who mix, load, apply, or are exposed to pesticides.

Title XIII--State Authority

These provisions would amend section 24 of the Act to allow Special Local Needs registrations to expire at the end of the period approved by the State, and requires EPA to establish criteria for disapproving such registrations.

Title XIV--Definitions

These amendments would amend section 2 of the Act to define the terms: "use inconsistent with the label," and "to distribute or sell" a pesticide.

Title XV--Information Requested

This provision would amend section 7 of the Act to require EPA to make efforts to organize and retrieve data from registrants in ways that eliminate or reduce requests for data, especially confidential data.

Title XVI--State Cooperation, Aid, and Training

This provision would amend section 23 of the Act to authorize EPA to enter into cooperative agreements to provide 50 percent of the costs of training programs to States and Indian tribes, and authorizes such sums as may be necessary for the cooperative agreements.

Title XVII--Scientific Advisory Panel

These amendments would amend section 25 of the Act to expand the Panel from seven to nine members and conform its termination date to the period that FIFRA is authorized.

Title XVIII--State Primary Enforcement Responsibility

This amendment would amend section 27 of the Act to clarify the role of the States in investigating misuse complaints, allowing the EPA to act if a State does not promptly initiate investigative action, or does not initiate appropriate enforcement action within ninety days of receiving a referral from the Administrator.

Title XIX--Unlawful Acts

These amendments to section 12 of the Act would define certain unlawful acts, including violations of recordkeeping requirements, falsifying laboratory testing data, and willfully submitting false data.

Title XX--Penalties

These provisions would amend section 14 of the Act to increase current FIFRA civil and criminal penalties for violation of the statute. Generally, they increase the maximum amount a violator can be fined: two times the current penalty for private applicators, and five times the current penalty for commercial applicators and pesticide dealers. Civil penalties for violations of the statute by registrants could be as high as $25,000 for the first offense.

Title XXI--Congressional Review

This amendment to section 25 of the Act would allow Congress sixty calendar days to review regulations issued under FIFRA during which time the regulation is not effective. Current provisions of the Act require that Congress be in session for sixty days.

Title XXII--Review of Regulations

This amendment would amend section 16 of the Act to clarify the right to challenge regulations issued under FIFRA.

Title XXIII--Delegation and Cooperation

This amendment would amend section 22 of the Act to clarify the respective roles of EPA and the Department of Labor regarding workplace exposure to pesticides, and requires that their efforts avoid duplicative and conflicting regulation.

Title XXIV-Indemnities

This provision would amend section 15 of the Act to require EPA to report to Congress about suspension actions taken that will require idemnification, including an estimate of the cost of idemnification, and the effects such costs would have on EPA's budget if specific additional appropriations are not made. EPA must also request the appropriation of funds for such idemnification payments.

Title XXV--Response to Pesticide Detection in Groundwater

These amendments would require EPA to take certain actions once pesticide residues are detected in groundwater. Once EPA learns of such residues, an action level for the pesticide must be determined. If residues in the groundwater which is being used for human consumption exceeds this action level, the use of the pesticide must be prohibited or the registration amended to reduce the residue level below the action level. If there is a reasonable likelihood that the action level will be exceeded at a point of current human consumption, the Administrator must require registration amendments to ensure the action level will not be exceeded. Where there is a potential point of human consumption and a reasonable likelihood the action levels will be exceeded, the Administrator can require registration amendments taking into consideration the potential points of consumption likely to be used.

Title XXVI--Authorization for Appropriations

This amendment would authorize appropriations to carry out the provisions of the statute.

Title XVII--Miscellaneous

These amendments would specifically authorize the IR-4 program, and direct the Administrator to contract for a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural products.

BEDELL AMENDMENT

FIFRA30

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[TECHNICALS]

Page 5, line 21, strike out ``must'' and insert in lieu thereof ``shall'' and on page 6 strike out lines 8 through 13 and insert in lieu thereof the following:

``(C)(i) Unless within 15 days after the Administrator's receipt of a request for access to such data and of an affirmation complying with subparagraph (D) the applicant submits to the Administrator an objection to the request asserting that the affirmation is inaccurate and the reasons for the objection, the Administrator shall grant the request. If an objection to a request is submitted to the Administrator within such 15-day period, the Administrator shall determine whether to grant the request within 5 days of the receipt of the objection. If the Administrator determines to grant the request, access shall not be permitted until 5 days after the applicant making the objection has been notified that access has been granted.

Page 7, line 15, strike out ``entitiy'' and insert in lieu thereof ``entity''.

Page 40, line 5, strike out ``product'' and insert in lieu thereof ``or active ingredient thereof''.

Page 70, strike out line 21 and insert in lieu thereof the following:

ately issue an order of suspension and a notice of intent to cancel the

Page 79, line 11, strike out ``in lieu thereof'' and insert in lieu thereof ``after the close quotation marks''.

Page 79, line 17, insert after ``label'' the following: ``is not written in an appropriate language as required by section 17(a)(4)(A) or''.

Page 89, beginning in line 9, strike out ``this Act or any other Federal law'' and insert in lieu thereof ``any Federal statute''.

Page 89, line 17, strike out ``(F)'' and insert in lieu thereof ``(G)'' and in line 25 insert ``non-governmental'' before ``producer''.

Page 98, line 14, insert ``FEDERAL PERSONNEL.--'' before ``Federal''.

Page 101, line 6, strike out ``(e)'' and insert in lieu thereof ``(f)''.

Page 102, line 18, strike out ``(e)(1)(B)'' and insert in lieu thereof ``(f)´´.

Page 103, line 21, insert ``before the comma´´ after ``inserting´´ and strike out the semicolon in line 24.

Page 104, line 4, strike out ``; or´´.

Page 105, line 5, strike out ``to´´.

Page 108, insert after line 12 the following:

(3) by amending paragraph (2)(J) to read as follows: ``(J) to violate any suspension order issued under section 3(C)(2)(B), 3A, or 6;´´;

and redesignate the succeeding paragraphs accordingly.

Page 109, strike lines 5 through 7 and insert in lieu thereof the following:

``(T) to willfully submit to the Administrator data known to be false in support of a registration; or´´.

Page 109, strike out line 9 and insert in lieu thereof the following:

section 3(a), 4(a), 10(e), 19(a), or

Page 110, beginning in line 18, strike out ``any wholesaler, dealer, or retailer of pesticides, or any person'' and insert in lieu thereof ``or any other person not described in subparagraph (A)''.

Page 110, strike out line 23 and all that follows through line 1 on page 111 and insert in lieu thereof the following:

for each offense. If such a person violates any provision of this Act after

Page 112, beginning in line 17, strike out ``any wholesaler, dealer, or retailer of a pesticide, or any person'' and insert in lieu thereof ``or any other person not described in subparagraph (A)''.

Page 112, line 24, insert close quotation marks before the comma.

Page 113, align the margin of paragraph (4) beginning in line 19 to full measure.

Page 129, line 1, strike out ``SPECIAL REVIEW'' and insert in lieu thereof ``PUBLIC INTERIM ADMINISTRATIVE REVIEW'' and in line 5 strike out ``an'' and insert in lieu thereof ``a public''.

Page 131, line 24, strike out ``(c)'' and insert in lieu thereof ``(a)'' and by inserting ``(as amended by section 1401(b))'' before ``is''.

Page 132, strike out lines 8 through 10 and insert in lieu thereof the following:

(A) in paragraph (1)(A) by striking out ``on the initial classifi-

Page 132, insert after line 18 the following:

(3) Section 3(c)(7)(A) (7 U.S.C. 136a(c)(7)(A)) is amended--

(A) by striking out ``submit'' each place it occurs and inserting in lieu thereof ``submit or cite'',

(B) by striking out ``submission'' and inserting in lieu thereof ``submission or citation'', and

(C) by striking out ``submitted'' and inserting in lieu thereof ``submitted or cited''.

Page 133, line 17, strike out ``(a)'' and insert in lieu thereof ``(u)''.

Page 133, line 24, strike out ``(3)'' and insert in lieu thereof ``(4)''.

Page 134, line 1, strike out ``(4)'' and insert in lieu thereof ``(5)'' and in line 3 strike out ``(5)'' and insert in lieu thereof ``(6)''.

Page 134, line 19, strike out ``a' in subsection (c)(7)(C)'' and insert in lieu thereof ``if' in subsection (c)(7)(A)'' and in line 20, strike out ``A'' and insert in lieu thereof ``If''.

Paqe 135, strike out lines 1 and 2 and insert in lieu thereof the following:

period and ``The'', and

in line 4, strike out ``(1)'' and insert in lieu thereof ``(2)'', and strike out lines 5 through 8 and insert in lieu thereof the following:

``As''.

Page 135, line 12, strike out ``(g)'' and insert in lieu thereof ``(a)(1)''.

Page 135, line 15, strike out ``(g)'' and insert in lieu thereof ``(c)''.

Page 136, beginning in line 14, strike out ``in subsection (d)(1)''.

Page 136, strike out lines 17 through 20 and redesignate the succeeding subsections accordingly.

Page 137, insert after line 7 the following:

(k) SECTION 21.--Section 21 (7 U.S.C. 136s) is amended--

(1) by inserting ``SECRETARY OF AGRICULTURE.--'' before ``The'' in subsection (a),

(2) by inserting ``VIEWS.--'' after ``(b)'', and

(3) by inserting ``NOTICE.--'' after ``(c)''.

(l) SECTION 24.--Section 24 (7 U.S.C. 136v) is amended--

(1) by inserting ``STATE REGULATION.--'' after ``(a)'',

(2) by inserting ``UNIFORMITY.--'' after ``(b)'', and

(3) by inserting ``ADDITIONAL USES.--'' after ``(c)''.

(m) SECTION 26.--Section 26 (7 U.S.C. 136w-1) is amended

(1) by inserting ``IN GENERAL.--'' after ``(a)'' in subsection (a),

(2) by inserting ``SPECIAL RULES.--'' after ``(b)'' in subsection (b),

(3) by inserting ``ADMINISTRATOR.--'' after ``(c)'', and

(4) by adding at the end the following:

``(d) Federal personnel.''.

(n) SECTION 27.--Section 27 (7 U.S.C. 136w-2) is amended--

(1) by inserting ``REFERRAL.--'' after ``(a)'',

(2) by inserting ``NOTICE OF INADEQUACY.--'' after ``(b)'', and

(3) by inserting ``CONSTRUCTION.--'' after ``(c)''.

Page 138, after line 4, strike out ``Interim'' and insert in lieu thereof ``Public interim'' and strike out ``an interim'' and insert in lieu thereof ``a public''.

Page 142, line 3, redesignate paragraph (24) as paragraph (25) and insert before that paragraph the following:

(24) by adding below the item relating to section 21 the following:

``(a) Secretary of Agriculture.

``(b) Views.

``(c) Notice.''.

Page 142, line 5, redesignate paragraph (25) as paragraph (27) and insert before that paragraph the following:

(26) by adding below the item relating to section 24 the following:

``(a) State regulation.

``(b) Uniformity.

``(c) Additional views.''.

Page 142, line 7, redesignate paragraph (26) as paragraph (28) and redesignate paragraph (27) in line 9 as paragraph (31) and add after paragraph (28) (as so redesignated) the following:

(29) by adding below the item relating to section 26 the following:

``(a) In general.

``(b) Special rules.

``(c) Administrator.

(30) by adding below the item relating to section 27 the following:

``(a) Referral.

``(b) Notice of inadequacy.

``(c) Construction.''.

Page 143, in the item relating to section 32 (g) strike out ``Special'' and insert in lieu thereof ``Public interim administrative''.

FIFRA32

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Conditional Registration]

Page 11, strike out line 1 and all that follows through line 20 on page 15 and insert in lieu thereof the following:

TITLE II--CONDITIONAL REGISTRATION

SEC. 201. CONDITIONAL REGISTRATION.

Subparagraphs (B) and (C) of section 3(c)(7) (7 U.S.C. 136a(c)(7)) are amended to read as follows:

``(B)(i) Except as provided in clauses (ii), (iii), and (iv), the Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding the fact that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that--

``(I) the applicant has submitted or cited the additional data that the Administrator may require solely for the proposed additional use,

``(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment, and

``(III) the additional use is in the public interest.

``(ii)(I) Except as provided in subclause (II), if the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), no registration of the pesticide may be amended under clause (i) during the pendency of any evaluation by the Administrator initiated by such notice.

``(II) If the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), the Administrator may amend the registration of a pesticide under clause (i) for an additional use if the additional use involves a minor food or feed use and the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is not available an effective alternative pesticide that does not meet or exceed such risk criteria.

``(iii) An applicant seeking an amended

registration of a pesticide under this subparagraph shall submit or cite to the Administrator such data as would be required to obtain a registration of a similar pesticide under paragraph (5). Except as provided in clause (iv), if the applicant is unable to submit or cite an item of such data because it has not yet been generated, the Administrator may amend the registration of a pesticide under such conditions as will require the submission or citation of such data not later than the time such data are required to be submitted for the maintenance of a registration of a similar pesticide under this section.

``(iv) If data concerning chronic dosing, toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required to support the registration of a pesticide and if a period reasonably sufficent for the generation and submission of such data has elapsed since the Administrator first imposed the data requirement, a conditional amendment to permit an additional use of the pesticide for other than a minor use shall not be granted under clause (i) unless such data have been submitted.

``(C)(i) Except as provided in clauses (ii) and (iii), the Administrator may conditionally register a pesticide containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data that have not been submitted because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement (I) on the condition that by the end of such period the Administrator receives such data and that the data that the Administrator receives do not meet or exceed risk criteria enumerated in regulations issued under paragraph (8), and (II) on such other conditions as the Administrator may prescribe are met.

``(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that--

``(I) use of the pesticide during the period referred to in clause (i) will not cause any unreasonable adverse effect on the environment, and

``(II) use of the pesticide is in the public interest.

``(iii) The Administrator shall not conditionally register a pesticide under this subparagraph if data concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity would be required for registration of such a product under subsection (c)(5), if a period reasonably sufficient for generation of such data has elapsed since the Administrator first imposed the data requirement, and if such data have not been submitted to the Administrator.''.

FIFRA37

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Reregistration]

Page 16, strike out line 21 and all that follows through line 22 on page 39 and insert in lieu thereof the following:

SEC. 302. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.--The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

``**SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.**

``(a) GENERAL RULE.--The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined after November 1, 1984, and before the effective date of this section, that--

``(1) there are no outstanding data requirements, and

``(2) the requirements of section 3(c)(5) have been satisfied.

``(b) SPECIAL AUTHORITIES OF ADMINISTRATOR.--

``(1) GUIDELINES.--Not later than one year after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the

Administrator shall by order issue guidelines to be followed by registrants in--

``(A) summarizing studies,

``(B) reformatting studies,

``(C) identifying adverse information, and

``(D) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section,

in accordance with subsection (f)(1). Guidelines issued under this paragraph shall not be subject to judicial review.

``(2) MONITORING.--The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under this section.

``(3) SUSPENSIONS AND PENALTIES.--

``(A) The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if--

``(i) the Administrator determines that progress is insufficient to ensure the submission of the data required under an agreement entered into under subsection (e)(3)(B) or (f)(1)(H) within the time period prescribed by subsection (e)(4)(B) or (f)(2)(B) or the registrant has not submitted such data to the Administrator within such time period,

``(ii) the Administrator determines that necessary tests to fill an outstanding data requirement for such pesticide have not been initiated within 1 year of the issuance of a notice under paragraph (1)(B) of subsection (g),

``(iii) the Administrator determines that progress is insufficient to ensure completion of tests referred to in clause (ii) within the time period prescribed by paragraph (2) of subsection (g) or the required test data have not been submitted to the Administrator within such time period, or

``(iv) a registrant fails to comply with clause (ii) or (iii) of section 3(c)(2)(B) of such Act.

``(B) A registrant who submits a certification under subsection (f)(1) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14(a).

``(c) REREGISTRATION PHASES.--Reregistrations of pesticides under this section shall be carried out in the following phases:

``(1) The first phase shall include the listing under subsection (d) of the active ingredients of the pesticides that will be reregistered.

``(2) The second phase shall include the submission to the Administrator under subsection (e) of a notice by registrants respecting their intention to seek reregistration, an identification by registrants of missing and inadequate data for such pesticides, and an agreement by the registrant to replace such missing or inadequate data within the applicable time period.

``(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (f).

``(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (g) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

``(5) The fifth phase shall include the review by the Administrator under subsection (h) of data submitted for reregistration and appropriate regulatory action by the Administrator.

``(d) PHASE ONE.--

``(1) PRIORITY FOR REREGISTRATION.--For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986) that--

``(A) are in use on or in food or feed and may result in postharvest residues,

``(B) may result in residues of potential toxicological concern in potable groundwater, edible fish, or shellfish,

``(C) have been determined by the Administrator before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 to have significant outstanding data requirements, or

``(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

``(2) REREGISTRATION LISTS.--For purposes of reregistration under this section, the Administrator shall by order--

``(A) not later than 60 days after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list pesticide active ingredients for which registration standards have been issued before such date,

``(B) not later than 4 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the first 150 pesticide active ingredients, as determined under paragraph (1),

``(C) not later than 7 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the second 150 pesticide active ingredients, as determined under paragraphs (1), and

``(D) not later than 10 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the remainder of the pesticide active ingredients.

Each list shall be published in the Federal Register.

``(3) JUDICIAL REVIEW.--The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

``(4) NOTICE TO REGISTRANTS.--Upon the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (e) if they intend to seek or not to seek reregistration of such pesticides.

``(e) PHASE TWO.--

``(1) IN GENERAL.--The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, agreement, or offer described in paragraph (3).

``(2) NOTICE OF INTENT TO SEEK REREGISTRATION.--

``(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall notify the Administrator by certified mail if the registrant intends to seek or does not intend to seek reregistration of the pesticide.

``(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

``(3) MISSING OR INADEQUATE DATA.--Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator--

``(A) in accordance with regulations issued by the Administrator under section 3 an identification of--

``(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient,

``(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

``(iii) data identified under clause (i) that have not been submitted to the Administrator; and

``(B) either--

``(i) an agreement to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B), or

``(ii) an offer to share in the cost to be incurred by a person who has agreed under clause

(i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (f) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be presumed to be inadequate if the data are derived from a study submitted before January 1, 1970, unless the registrant who would be required to identify such data demonstrates to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

``(4) TIME PERIODS.--

``(A) A submission under paragraphs (2) and (3) shall be made--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 3 months after the date of publication of the listing of such active ingredient, ``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 3 months after the date of publication of the listing of such active ingredient, and

``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

Upon application, the Administrator may extend the time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the applicant prevent the applicant from complying with such period.

``(B) A registrant shall submit data in accordance with an agreement entered into under paragraph (3)(B) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of an agreement under paragraph (3)(B). The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(5) CANCELLATION AND REMOVAL.--

``(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of an intent to cancel the registration of such registrant for such pesticide. Before issuing such a notice the Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. Upon expiration of such 60 days, the Administrator may by order cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another registrant.

``(B) If no registrant of a pesticide containing a particular active ingredient listed pursuant to subsection (d)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient, if no such registrant complies with paragraph (3)(A), or if no such registrant agrees under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A), or if the fee prescribed by subsection (j)(1) has not been paid with regard to the active ingredient, the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (d)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient, and shall provide 60 days for comment on such notice. After the 60-day period has expired the Administrator may by order cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if--

``(i) during the comment period a person acquires the registrant's rights in that registration,

``(ii) during the comment period that person furnishes a notice of intent to reregister the pesticide product in accordance with paragraph (2), and

``(iii) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (j)(1) has been paid.

``(f) PHASE THREE.--

``(1) INFORMATION ABOUT STUDIES.--Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) who has submitted a notice under subsection (e)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under subsection (b)(1), to the Administrator--

``(A) a summary of each study, previously submitted in support of the registration of the pesticide by the registrant, on such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section,

``(B) a summary of each study in support of the registration previously submitted to the Administrator by the registrant that may or may not comply with regulations issued by the Administrator under section 3 but which the registrant asserts comply with such regulations,

``(C) a reformat of the data from each study summarized under subparagraph (A) or (B) concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982,

``(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and sub-chronic dosing data submitted to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section,

``(E) an identification of data that are required to be submitted to the Administrator under section 6(g)(4) and that indicate an adverse effect of the pesticide,

``(F) an identification of any other information available that in the registrant's view supports the registration,

``(G) a certification that the registrant possesses or has access to the raw data used in or generated by the studies summarized under subparagraph (A) or (B),

``(H) either--

``(i) an agreement to submit data to fulfill each outstanding data requirement identified by the registrant, or

``(ii) an offer to share in the cost of developing such data to be incurred by a person who has agreed to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing, and

``(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

``(2) TIME PERIODS.--

``(A) The information required by paragraph (1) shall be submitted to the Administrator--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient,

``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 12 months after the date of publication of the listing of such active ingredient, and

``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

``(B) A registrant shall submit data in accordance with an agreement entered into under subparagraph (H) of paragraph (1) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of the agreement under such subparagraph. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(3) CANCELLATION.--

``(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator shall by order and without hearing cancel the registration of such pesticide.

``(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information is not in conformity with the requirements for the form of submission established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to meet such requirements.

``(ii) If the Administrator determines that the registrant made a good faith attempt, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

``(iii) If the Administrator determines that the registrant did not make a good faith attempt, the Administrator may issue a notice of intent to cancel the registration that shall be sent to the registrant by certified mail. The cancellation shall become final and effective at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant. If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to comply with the requirements for the form of the submission. Such a hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

``(g) PHASE FOUR.--

``(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.--

``(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (e)(3) and (f)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the Administrator's review under this section, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (f)(1).

``(B) The Administrator shall independently identify and publish in the Federal Register a list of each outstanding data requirement for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator shall also at the same time issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirement.

``(2) TIME PERIODS.--

``(A) The Administrator shall take the action required by paragraph (1)--

``(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 18 months after the date of the listing of such active ingredient,

``(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 24 months after the date of the listing of such active ingredient, and

``(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

``(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time as determined by the Administrator but not to exceed 48 months after the issuance of such notice. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

``(h) PHASE FIVE.--

``(1) DATA REVIEW.--The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed pursuant to subsection (d)(2) and of all other available data found by the Administrator to be relevant.

``(2) REREGISTRATION AND OTHER ACTIONS.--

``(A) ELIGIBILITY FOR REREGISTRATION.--After conducting the review of data concerning an active ingredient prescribed by paragraph (1), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration.

``(B) PRODUCT-SPECIFIC DATA.--Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 3(c)(2)(B) and shall review such data. The Administrator shall require that data under this subparagraph be furnished to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of particular data.

``(C) REREGISTRATION.--After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide should be reregistered, the Administrator shall reregister such pesticide within 1 year of the submission of the data concerning such pesticide under subsections (g) and (h)(2)(B). For extraordinary circumstances the Administrator may extend the period for reregistration for not more than 1 additional year.

``(D) OTHER ACTION.--If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

``(i) COMPENSATION OF DATA SUBMITTER.--If data that are submitted by a registrant under subsection (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

``(j) FEES.--

``(1) INITIAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.--The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major use on food or feed shall collectively pay a fee of $50,000 upon submission of information under paragraphs (2) and (3) of subsection (e) for such ingredient.

``(2) FINAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.--

``(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major use on food or feed shall collectively pay a fee of $100,000 (A) upon submission of information for such ingredient under paragraph (1) of subsection (f) if data are reformatted under subsection (f)(1)(C), or (B) upon submission of data for such ingredient under subsection (f)(2)(B) if data are not reformatted under subsection (f)(1)(C).

``(B) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (A) of subsection (d)(2) and that is contained in any pesticide that is registered for a major use on food or feed shall collectively pay a fee of $100,000 at such time as the Administrator shall prescribe.

``(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.--

``(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is not contained in any pesticide that is registered for a major use on food or feed shall collectively pay fees in an amount determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the time corresponding to the time fees prescribed by paragraphs (1) and (2) are to be paid.

``(B) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (A) of subsection (d)(2) and that is not contained in any pesticide that is registered for a major use on food or feed shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

``(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.--

``(A) In the case of an active ingredient of a pesticide that is registered solely for agricultural or non-agricultural minor use or where value or volume or use is small, the Administrator may, upon application and in the sole discretion of the Administrator, reduce or waive the fees prescribed by paragraph (3).

``(B) In the case of an antimicrobial pesticide that contains active ingredients for which production levels do not exceed 1,000,000 pounds per year, the Administrator may, upon application, and in the sole discretion of the Administrator, reduce or waive the fees prescribed by paragraph (3).

``(5) OTHER FEES.--On payment of fees for the reregistration of a pesticide in accordance with paragraphs (1), (2), (3), or (4) the Administrator may not levy any other fees for the reregistration with respect to that active ingredient.

``(6) APPORTIONMENT.--If two or more registrants are required to pay any fee prescribed by this subsection with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the three calendar years preceding the date of payment of such fee.

``(k) EXEMPTION OF CERTAIN REGISTRANTS.--The requirements of subsections (e), (f), (g), and (j) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data in order to obtain an initial registration of such pesticide.

``(l) REVOLVING FUND.--

``(1) There shall be established in the Treasury of the United States a revolving fund.

``(2) All fees collected by the Administrator under subsection (j) shall be deposited into the revolving fund and shall be available to the Administrator, without fiscal year limitation, to carry out this section.

``(3) Money in the revolving fund not currently needed to carry out this section shall be--

``(A) maintained on hand or on deposit;

``(B) invested in obligations of the United States or guaranteed thereby; or

``(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

``(4) The Administrator shall--

``(A) provide an annual accounting of the fees collected and disbursed from the revolving fund; and

``(B) take all steps necessary to insure that expenditures of such funds are solely utilized to carry out this section.

``(m) JUDICIAL REVIEW.--Any failure of the Administrator to take any action required by this section shall be subject to judicial review under section 16.''.

(b) TECHNICAL AMENDMENT.--Subsection (g) of section 3 (7 U.S.C. 136a(g)) is repealed.

FIFRA15

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Public Right to Know]

Page 43, strike out line 1 and all that follows through line 3 on page 45 and insert in lieu thereof the following:

TITLE V--PUBLIC RIGHT TO KNOW

SEC. 501. PUBLIC RIGHT TO KNOW.

(a) FACT SHEETS AND REPORTS.--Section 7 (7 U.S.C. 136e) is amended by adding at the end thereof the following new subsection:

``(e) PUBLIC RIGHT TO KNOW.--

``(1) Any producer operating an establishment in any State shall prepare or obtain a fact sheet complying with this subsection for each active ingredient manufactured or used at the establishment. The producer shall maintain copies of the fact sheet at the establishment and shall furnish a copy to any person upon request.

``(2) Each fact sheet required under paragraph (1) shall--

``(A) contain the chemical name, each common name, and any trade name of each ingredient for which the fact sheet is required and a summary of relevant health, safety, and environmental data concerning the ingredient, and

``(B) be revised as often as is necessary for it to reflect available information about the ingredient.

The Administrator may require a fact sheet to be amended to provide accurate and clear information to the public.

``(3) Each producer to whom this subsection applies shall furnish to the Administrator annually, in accordance with regulations published by the Administrator, a report that includes--

``(A) for each establishment operated by the producer in any State, the name of each ingredient for which a fact sheet is required that is manufactured or used at that establishment; and

``(B) for each ingredient for which a fact sheet is required, the location of each establishment where such ingredient is manufactured or used by the producer; and

``(C) a copy of the most current version of each required fact sheet.

``(4) The fact sheets required by paragraph (1) and the annual reports required by paragraph (3) shall be available to the public.

(b) CONFIDENTIAL INFORMATION.--Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting ``and production locations'' after ``names''.

FIFRA14

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Data Disclosure]

Page 45, line 23, insert ``under paragraph (1)'' after ``Administrator''.

Page 46, line 5, strike out the close quotation marks and the period following and add after that line the following:

``(3) REQUIRED DISCLOSURE.--The Administrator shall disclose to a State any data or information acquired under this Act if the State assures the Administrator and the Administrator determines that--

``(A) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section, and

``(B) the law of the State allows the submitter of the data or information to recover just compensation in a civil action against the State for losses occasioned by the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with section 3 or this section.''.

FIFRA34

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Cancellation Procedures]

Page 48, strike out line 16 and all that follows through line 22 on page 66 and insert in lieu thereof the following:

TITLE VII--CANCELLATION PROCEDURES

SEC. 701. PUBLIC INTERIM ADMINISTRATIVE REVIEW.

(a) SECTION 3(c)(8).--Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

``(8) PUBLIC INTERIM ADMINISTRATIVE REVIEW PROCEEDINGS.--

``(A) IN GENERAL.--A public interim administrative review process to determine whether the use of a pesticide (including a category of pesticides) may pose unreasonable adverse effects to humans or the environment shall be conducted in accordance with this paragraph.

``(B) CRITERIA FOR INITIATING A PUBLIC INTERIM ADMINISTRATIVE REVIEW.--

``(i) Criteria for initiating a public interim administrative review of a pesticide shall be set forth in regulations published by the Administrator.

``(ii) Such criteria shall be established on the basis of levels of risk and may include consideration of currently available exposure data.

``(iii) Absence of exposure data shall not delay or preclude initiation of a public interim administrative review. The Administrator may decline to initiate a public interim administrative review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

``(C) REVIEW REQUIREMENT.--The Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of such pesticide required under this Act unless such public interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

``(D) PRE-REVIEW NOTICE PROCEDURES.--

``(i) On receipt of information respecting a pesticide demonstrating that the criteria for initiating a public interim administrative review established under subparagraph (B) have been met, the Administrator shall immediately notify all registrants of such pesticide and provide the registrants with appropriate information and an explanation of the manner in which the criteria have been met.

``(ii) Not later than 30 days after receipt of such notice, a registrant may respond to such notice.

``(iii) Not later than 30 days after the Administrator receives a response from a registrant, the Administrator shall determine whether a public interim administrative review of the pesticide shall be initiated.

``(E) NOTICE.--If the Administrator intends to initiate a public interim administrative review of a pesticide that is registered for agricultural uses, the Administrator shall notify the Secretary of Agriculture of the intention to initiate such review and the reasons therefor.

``(F) REVIEW PROCEDURE.--

``(i) Any public interim administrative review proceeding shall be initiated and conducted in accordance with regulations published by the Administrator. Such regulations shall provide that a public interim administrative review shall consist of--

``(I) a notice of initiation of a public interim administrative review and opportunity for public comment on such notice,

``(II) a notice of a preliminary determination and opportunity for public comment on such notice, and

``(III) a notice of a final determination,

except that such regulations may authorize the Administrator to combine or forego any such notice.

``(ii) Any proposed determination of the Administrator shall be submitted to the Scientific Advisory Panel established under section 25(d) at the next scheduled meeting of the panel for comment solely on relevant scientific issues. The public may submit comments to the Scientific Advisory Panel concerning such issues.

``(iii) The notice of the initiation of a public interim administrative review or the notice of a preliminary determination shall state the basis for such review or determination and include a request for any additional data needed and a bibliography of all scientific data and studies and expert analysis concerning those risks or benefits of the pesticide that are under review. Information in the bibliography shall be made available to the public consistent with the requirements of section 10. The Administrator shall determine, to the extent feasible, before the initiation of the public interim administrative review which data in the bibliography may be disclosed to the public under section 10(d)(1). If the Administrator receives additional data concerning such risks or benefits, the Administrator shall, within 30 days of receiving the additional data, revise the bibliography to reflect such data and make the revised bibliography available to the public.

``(iv) Not later than 90 days after the publication of a notice of the initiation of a public interim administrative review or a notice of a preliminary determination, comments may be submitted on such review or determination. Any person who submits comments shall disclose to the Administrator all scientific data and studies and expert analysis in such person's possession concerning those risks or benefits of the pesticide that are under review that were not included in the bibliography included in such notice. If such person receives additional scientific data or studies or expert analysis of such data or studies that were not included in such bibliography, such person shall disclose such scientific data, studies, and expert analysis to the Administrator within 30 days of receipt.

``(v) Not later than 18 months after the initiation of a review, the Administrator shall make a decision regarding which regulatory action (if any) to take regarding the pesticide that was the subject of the review and shall publish the decision.

``(vi) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which--

``(I) additional data critical to a fair and accurate determination of risks posed by the pesticide subject to review are required;

``(II) the extension is for a period limited to the time required to obtain such data on an expedited basis and in no event to exceed 1 year; and

``(III) the Administrator acted to obtain the additional data at the time the public interim administrative review was initiated unless the Administrator could not have reasonably known of the need for such data at such time.

``(G) JUDICIAL REVIEW.--Any person may seek judicial review under section 16(a) of the failure of the Administrator to act within the time period prescribed under this paragraph.''.

(b) SCIENTIFIC ADVISORY PANEL.--The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by striking out ``The'' and inserting in lieu thereof ``Except when a referral is made pursuant to section 3(c)(8)(F) to the Scientific Advisory Panel established by this subsection, the''.

(c) APPLICATION OF AMENDMENTS.--The amendments made by this section shall apply to public interim administrative reviews under section 3(c)(8) of the Federal Insecticide, Fungicide, and Rodenticide Act initiated after January 1, 1987.

SEC. 702. PROCEEDINGS UNDER SECTION 6.

Section 6 (7 U.S.C 136d) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

``(f) HEARING PROCEDURES AFTER PUBLIC INTERIM ADMINISTRATIVE REVIEW.--

``(1) Subsection (d), as modified by the special rules of paragraphs (2) and (3) of this subsection, shall govern any hearing under subsection (d) that results from the Administrator's final determination in a public interim administrative review proceeding under section 3(c)(8) that was initiated after January 1, 1987, that included an opportunity for comment on a notice of preliminary determination issued in connection with such review, and for which the time between the first public notice for such review under section 3(c)(8)(F) and the close of the last comment period provided for such review was not less than 180 days.

``(2) REQUEST FOR HEARING.--Any person who is adversely affected by a decision of the Administrator respecting a pesticide (including a person without an economic interest in such pesticide) following a public interim administrative review described by paragraph (1) may request a hearing in the manner provided by subsection (b)(2)(B) within 30 days of such decision. A person may request a hearing, or intervene in a hearing, only if that person submitted comments during the public interim administrative review proceeding and otherwise complied with section 3(c)(8)(F).

``(3) PROCEDURES.--

``(A) At the request of a party, an administrative law judge may receive into evidence portions of the public interim administrative review record and other evidence if the party demonstrates that such portions of the record and other evidence are relevant and material to the disputed issues, are not unduly repetitious, are sponsored by a competent witness or witnesses available to be cross-examined on all matters relating to such evidence. Direct testimony of witnesses concerning scientific data or studies that were not, but could have been, obtained and submitted in the public interim administrative review proceeding by the exercise of due diligence by the offering party shall not be admissible.

``(B) The right of other parties to confront and cross-examine such evidence shall be preserved with respect to material issues of adjudicative fact, so long as such cross examination is not unduly repetitious.

``(C)(i) Not later than 120 days after the administrative law judge is appointed, prehearing matters shall be completed and the hearing shall commence.

``(ii) The administrative law judge may establish a schedule for prehearing matters, including discovery and motions, and shall ensure that the hearing schedule is met. The administrative law judge shall issue such orders as are appropriate for the purpose of simplifying and clarifying issues, specifying the order of presentation of witnesses, and allocating the time for cross-examination, briefing, and decision.

``(iii) Discovery shall be permitted after the expiration of 120 days after the appointment of the administrative law judge upon a determination by the administrative law judge that (I) such discovery shall not in any way unreasonably delay the proceeding, (II) the information to be obtained is not otherwise obtainable, and (III) such information has significant probative value and is necessary to obtain relevant evidence needed to resolve a material issue in dispute.

``(D) Any challenge to--

``(i) the authority to issue, or

``(ii) the procedural correctness of the issuance of,

the notice of intent to cancel or change classification or to any request for a hearing or motion to intervene shall be filed with the administrative law judge not later than 30 days before the commencement of the evidentiary phase of the hearing.

``(E) Not later than 30 days before the hearing commences, the parties shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits that the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended upon motion by a party.

``(F) If new studies become available that were not available during the public interim administrative review, the administrative law judge may, on request of any party and when in the judgment of the administrative law judge it is necessary, submit such studies to the Scientific Advisory Panel established under section 25(d) for supplemental comment on an expedited basis under such time limits as may be established by the administrative law judge.

``(G) The administrative law judge shall schedule the presentation and examination of witnesses so that the presentation of evidence is completed within 60 days of the commencement of the hearing, except that the schedule shall not prejudice the right of a party to present evidence. The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case and shall have the burden of proof as to that issue.

``(H) A hearing conducted in accordance with this subsection shall be completed and the Administrator shall make a final decision within 300 days of the issuance of the notice that gave rise to the hearing. The time limit imposed by this subparagraph may not be extended, except in exceptional circumstances in which such extension is essential for a fair and accurate determination of pivotal facts central to the proceeding. In no event may such time limit be extended more than 180 days. Any other time limit imposed by this paragraph may be extended for good cause.

``(I) Failure to complete a hearing and make a final decision within the time period prescribed by subparagraph (H) shall be grounds for a civil action in a district court of the United States seeking an order to establish a schedule requiring the prompt completion of the hearing, but shall not be grounds for termination of the hearing or for making a final decision respecting the pesticide that was the subject of the hearing.''.

SEC. 703. CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELING.

Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

``(b) CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELING.--

``(1) NOTICE OF CANCELLATION OR CHANGE IN CLASSIFICATION.--

``(A) If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of intent--

``(i) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the action of the Administrator; or

``(ii) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

``(B) A notice issued under subparagraph (A) shall be sent to each registrant of the pesticide with respect to which the notice is issued and shall be made public.

``(C) In determining whether to issue a notice under subparagraph (A), the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

``(D)(i) Not later than 60 days before sending a notice to a registrant or making public such notice under subparagraph (B), whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of the proposed notice under subparagraph (A) and an analysis of the impact of the proposed action on the agricultural economy. The Secretary of Agriculture shall provide comments on such notice and analysis to the Administrator within 30 days of receiving the copy of such notice.

``(ii)(I) If the Secretary of Agriculture provides such comments in writing within 30 days of receiving the copy of such notice, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the comments of the Secretary.

``(II) If the Secretary of Agriculture does not provide such comments in writing within 30 days of receiving the copy of such notice, the Administrator may notify the registrant and make public the notice at any time after such 30-day period.

``(iii) The time requirements imposed by this subparagraph may be waived or modified to the extent agreed upon by the Administrator and the Secretary of Agriculture.

``(E) If the Administrator finds that suspenstion of a pesticide registration is necessary to prevent an imminent hazard to human health, the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture prescribed by subparagraph (D) and of submission to the Scientific Advisory Panel under section 25(d) and proceed in accordance with subsection (c).

``(2) HEARING.--

``(A) The action proposed in a notice issued under paragraph (1)(A) shall become final and effective at the end of 30 days from receipt by the registrant or publication of a notice issued under paragraph (1)(B), whichever occurs later, unless within that time--

``(i) the registrant makes the necessary corrections, if possible; or

``(ii) a request for a hearing is made by a person adversely affected by the notice.

``(B) Whenever a request for a hearing is made, the request shall--

``(i) identify with particularity the findings and conclusions of the decision of the Administrator that are disputed; and

``(ii) include a complete statement of the reasons and factual basis that support the request for a hearing.

``(C) Any party to the proceeding may identify findings and conclusions in dispute.

``(D) If a hearing is held pursuant to such a request or the determination of the Administrator under paragraph (1)(A)(ii), a decision pertaining to registration or classification issued after completion of such hearing shall be final.

``(3) FACTORS.--In taking any action under paragraph (1), the Administrator shall--

``(A) consider restricting a use or uses of a pesticide as an alternative to cancellation and fully explain the reasons for such restriction; and

``(B) consider the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and publish in the Federal Register an analysis of such impact.

``(4) LABELING CHANGES.--

``(A) If the Administrator determines that a change in the labeling of a registered pesticide (i) is necessary to prevent use of the pesticide from causing unreasonable adverse effects on the environment, and (ii) would not delete from the labeling the authority to use the pesticide on a particular crop, animal, or site, render the product unmarketable or have an adverse impact on the production or price of agricultural commodities the Administrator may notify the registrant of such pesticide of the change proposed by the Administrator and provide that the registrant may submit comments to the Administrator on such proposed change in the 30-day period beginning on the date of the receipt of such notice. If a registrant who is notified by the Administrator of a proposed labeling change notifies the Administrator that the registrant does not object to such change, such change shall take effect as prescribed by the Administrator. If a registrant who is notified by the Administrator of a proposed labeling change does not submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a notice stating that if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be cancelled by operation of law. The registration of a registrant who does not respond to a second notice within such 30-day period shall be cancelled by operation of law.

``(B) If a registrant submits an objection to the Administrator in response to a notice under subparagraph (A) respecting a proposed labeling change, the Adminstrator may, by regulation issued in accordance with section 553 of title 5, United States Code, determine--

``(i) that a use of a pesticide product (or category of products) causes or will cause unreasonable adverse effects on the environment; and ``(ii) subject to the restrictions on the Administrator's authority imposed in subparagraph (A), the labeling under which the pesticide product (or category of products) may be distributed, sold, or used without causing unreasonable adverse effects on the environment.

``(C) Any regulation issued under subparagraph (B) (and any refusal of a petition to modify or rescind such a regulation) shall be reviewable only as provided by section 16(e).

``(D) After the promulgation of a regulation under subparagraph (B), the Administrator shall notify each registrant of the pesticide subject to the regulation of the labeling required by the regulation and provide an opportunity for each registrant to apply to the Administrator for an amendment to the registration to comply with the regulation. If a registrant does not apply for such an amendment within the prescribed 30-day period, the Administrator shall issue a notice of intent to cancel the registration of such registrant. A registrant may request a hearing under subsection (d) on such notice. A user of a pesticide subject to such regulation may also request such a hearing. The scope of the hearing shall be limited to--

``(i) whether the pesticide complies with the regulation;

``(ii) whether the regulation by its terms is applicable to such pesticide; and

``(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.''.

FIFRA13

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Tolerances and Food Additive Regulations]

Page 87, strike out line 15 and all that follows through line 22 on page 88 and insert in lieu thereof the following:

The Act (as amended by section 601) is amended by adding at the end the following:

``SEC. 32. TOLERANCES AND FOOD ADDITIVE REGULATIONS FOR AGRICULTURAL COMMODITIES.

``(a) CANCELLATION.--If the Administrator--

``(1) has cancelled the registration of each pesticide containing a specific active or inert ingredient registered for a particular food or feed use, or

``(2) has accepted the voluntary cancellation of, or has knowledge of the voluntary withdrawal of, such registration,

due in whole or in part to the risk to humans, not later than 60 days after the effective date of such cancellation or after receipt of knowledge of such withdrawal, any associated tolerance or exemption from a tolerance for such ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) and any associated food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348) shall be revoked. The effective date of such revocation may be delayed in order to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of--

``(1) use of the cancelled pesticide before the date of its cancellation,

``(2) use of existing stocks of such pesticide as authorized under the order cancelling the registration of the pesticide, or

``(3) unavoidable residual environmental contamination.

``(b) SUSPENSION.--If the Administrator has suspended the registration of a pesticide containing a specific active or inert ingredient due in whole or in part to the risk to humans, not later than 60 days after the effective date of such suspension, any associated tolerance or exemption from a tolerance for such ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) and any associated food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348) shall be suspended. The effective date of such suspension may be delayed in order to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of--

``(1) use of the suspended pesticide before the date of its suspension,

``(2) use of existing stocks of such pesticide as authorized under the order suspending the registration of the pesticide, or

``(3) unavoidable residual environmental contamination.

In suspending a tolerance, an exemption from a tolerance, or a food additive regulation, the procedures required under section 553 of title 5, United States Code, shall be used. The suspension of a tolerance, an exemption from a tolerance, or a food additive regulation for a pesticide shall be effective as long as the registration of the pesticide to which the tolerance, exemption, or regulation is applicable is suspended. If the registration of the pesticide ceases to be suspended and is not cancelled, any such suspension shall be terminated.

``(c) REASSESSMENT.--At the time the Administrator makes a determination under section 3A(h)(2)(A) regarding an active ingredient or a determination under section 3A(h)(2)(C) regarding an inert ingredient, any tolerance or exemption from a tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for such ingredient and any food additive regulation for such ingredient established under section 409 of such Act (21

U.S.C. 348) shall be reassessed and such tolerance, exemption, or regulation shall be established, amended, or revoked as necessary.

``(d) CONSTRUCTION.--Nothing in this section limits or restricts other authority to establish, amend, or revoke a tolerance or exemption from a tolerance for an active or inert ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) or any food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348).''.

FIFRA38

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Cooperative Agreements]

Page 105, strike out line 21 and all that follows on line 25 page 106 and insert in lieu thereof the following:

TITLE XVI--STATE COOPERATION, AID, AND TRAINING

SEC. 1601. COOPERATIVE AGREEMENTS.

Section 23(a) (7 U.S.C. 136u) is amended to read as follows:

``(a) COOPERATIVE AGREEMENTS.--The Administrator may enter into cooperative agreements with States and Indian Tribes for the following:

``(1) To delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian Tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants.

``(2) To provide an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator. There are authorized to be appropriated such sums as may be necessary for cooperative agreements to carry out this paragraph.

``(3) To provide an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator. There are authorized to be appropriated such sums as may be necessary for cooperative agreements to carry out this paragraph.''.

SUMMARY OF TECHNICAL AND CLARIFYING AMENDMENTS TO H.R. 2482

(1) The first amendment would make various technical and conforming amendments throughout the bill to provide clarity and correct spelling, grammar, and punctuation.

(2) The second amendment would substitute for the provisions of Title II--Conditional Registration. The amendment would clarify that, with several exceptions, applicants seeking amended registrations under these provisions must submit or cite data as would be required to obtain a registration under the Act. The amendment would also eliminate the inaccurate distinction drawn in the bill between conditional amendments to the registration of a pesticide and an amendment to an existing conditional registration. The amendment redrafts other provisions of the title for clarity.

(3) The third amendment would substitute for the provisions of Title III--Reregistration and Revenues after page 16, line 20 through line 22 on page 39. The amendment would clarify that registrants may either agree to submit the studies needed for reregistration or offer to share in the cost to be incurred by a person who has agreed to submit the studies.

The amendment would clarify that the Administrator could move to cancel the registration of a registrant that does not pay the required registration fee within certain time periods. The amendment would clarify that registrants must identify data that indicates an adverse effect of the pesticide in phase three of reregistration. The amendment would also clarify the authority of the Administrator to move to cancel a registration if the registrant does not comply with the reregistration provisions of the bill. The amendment redrafts other provisions of the title for clarity and readability.

(4) The fourth amendment would substitute for the provisions of Title V--Public Right to Know. Under the amendment, required fact sheets would be prepared under the authority of section 7 of the FIFRA by establishments registered under the Act. The bill currently requires the fact sheets to be submitted by registrants under the authority of section 3 of the Act.

(5) The fifth amendment would amend Title VI--Data Disclosure to States--to describe in more detail the conditions under which the Administrator will disclose to a State data or information acquired under the Act.

(6) The sixth amendment would substitute for the provisions of Title VII--Cancellation Procedures. The amendment would clarify that failure to complete a hearing within the prescribed deadlines will not be grounds for terminating a hearing.

The amendment would clarify the authority for the Administrator to move to cancel the registration of a registrant that does not comply with label changes required under the provisions of the bill. The amendment would also make other technical changes in the provisions of the title.

(7) The seventh amendment would substitute for the provisions of section 1006, Tolerances and Regulations for Agricultural Commodities, contained in Title X--Export of Pesticides. The amendment would redraft and expand the provisions of section 1006 to provide for technical accuracy.

(8) The eighth amendment would substitute for the provisions of Title XVI--State Cooperation, Aid, and Training. The amendment would clarify that cooperative agreements may be used to delegate to States or Indian tribes the authority to cooperate in the enforcement of the FIFRA.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 11, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the status and potential impact of bovine growth hormone

The following Members were present:

Mr. Coelho
Mr. Volkmer
Mr. Olin
Mr. Stenholm
Mr. Daschle
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Stangeland
Mr. Gunderson
Mr. Smith
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

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Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Bernard Brenner, Press Secretary
Kim Schnoor, Subcommittee Staff Director
Courtney Pastrick, Staff Assistant
Steve Kerr, Minority Consultant
Glenda Temple, Clerk
Kathy Hughes, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Dr. Ewen M. Wilson, Deputy Assistant Secretary for Economics, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Richard F. Fallert, Economic Research Service, USDA
   and

   Dr. Orville G. Bentley, Assistant Secretary for Science and Education, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Dan Laster, Agricultural Research Service, USDA

2. Honorable Frank E. Young, Commissioner, Food and Drug Administration, Rockville, Maryland
   Acc. by: Dr. Richard Teske, Acting Deputy Director, Center for Veterinary Medicine, FDA

3. Panel:
   Mr. Edward R. Roberts, President, Elanco Products Company, Indianapolis, Indiana

   Dr. David Petrick, Manager, Global Animal Product Registration, Agricultural Research Division, American Cyanamid Company, Princeton, New Jersey

   Dr. Lee A. Miller, Vice President and General Manager, Animal Sciences Division, Monsanto Agricultural Company, St. Louis, Missouri

   Dr. Marlin D. Kleckner, Executive Director, Agricultural Research and Development, The Upjohn Company, Kalamazoo, Michigan

Statements Submitted for the Record:

1. Mr. Steward G. Huber, President, Farmers Union, 3225 E. Washington, Madison, Wisconsin 53704-4391

2. Mr. Robert P. Mooney, Manager for New Ventures, Agricultural Division, American Cyanamid Company, Princeton, New Jersey

Wednesday, June 11, 1986
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing - a.m.
Review the status and potential impac
of bovine growth hormona

Chairman Coelho called the meeting to order and made a brief opening statement on the need to review the status and potential impact of bovine growth hormone. Messrs. Jeffords, Olin, and Gunderson also made opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings recesses were taken at 10:10, 10:35, and 11:35 a.m. to enable Members to respond to recorded votes on the House floor. At 12:35 p.m. the meeting was adjourned to reconvene at 1:30 p.m. this date to receive testimony from other scheduled witnesses.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 11, 1986

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing

met at 1:45 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the status and potential impact of bovine growth hormone

The following Members were present:

Mr. Coelho
Mr. Volkmer
Mr. Stenholm
Mr. English
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Jeffords
Mr. Gunderson
Mr. Smith
Mr.
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Staff Present:
Bernard Brenner, Press Secretary
Kim Schnoor, Subcommittee Staff Director
Courtney Pastrick, Staff Assistant
Jeffrey Weiss, Staff Assistant
Kathy Hughes, Staff Assistant
Steve Kerr, Minority Consultant

Witnesses:

1. Panel:
   Dr. Neal Jorgensen, Associate Dean for Agricultural Research, University of Wisconsin, Madison, Wisconsin

   Dr. Robert Kalter, Professor and Chairman of Agricultural Economics, Cornell University, Ithaca, New York

   Dr. William Chalupa, Professor Nutrition, School of Medicine, University of Pennsylvania, Kennett Square, Pennsylvania

2. Panel:
   Mr. Walter E. Stemler, Chairman, Animal Disease Advisory Committee, National Milk Producers Federation, Arlington, Virginia

   Mr. Philip J. Hermsen, Director of Quality Control and Standards for the Mid-States Region of Associated Milk Producers, Inc., 830 N. Meacham Road, Schaumburg, Illinois

   Mr. Don Long, President, National Dairy Herd Improvement Association, Weyauwega, Wisconsin

   Mr. William Moore, Dairy Farmer, Chatham, Pennsylvania

   Mr. David S. Walton, Dairy Farmer, Kennett Square, Pennsylvania

3. Panel:
   Mr. Jeremy Rifkin, President, Foundation on Economic Trends, Washington, D.C.

   Mr. Ray Daniel, Sr., Director, Chase Econometrics, Washington, D.C.

   Ms. Kristen Allen, Resources for the Future, Washington, D.C.

Statements Submitted for the Record

1. Dr. Michael Fox, Scientific Director, The Humane Society of the U.S., Washsington, D.C.

Wednesday, June 11, 1986
Livestock, Dairy, and Poultry
Subcommittee
Public Hearing - p.m.
Review the status and
potential impact of bovine
growth hormone

Chairman Coelho called the meeting to order for the purpose of reviewing the status and potential impact of bovine growth hormone.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings, a recess was taken at 2:15 p.m. to enable Members to respond to recorded votes on the House floor. Chairman Coelho adjourned the meeting at 3:50 p.m., subject to call of the Chair.

Kathy Hughes

Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 11, 1986

~~(Sub)~~ Committee: Full

Business Meeting

met at 2:05 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 2482, Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon

Mr. Staggers
Mr. Evans (Ill.)
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
James Davis, Staff Assistant
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Glenda Temple, Clerk

Witnesses:

Present to respond to Member's questions:

1. Mr. David Meade, Office of Legislative Counsel, U.S. House of Representatives
2. Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency
3. Mr. Ed Gray, Office of General Counsel, Environmental Protection Agency
4. Mr. Steve Schatzow, Director, Office of Pesticide Programs, Environmental Protection Agency

Wednesday, June 11, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 2482

Action Taken:

-- By voice vote Hatcher amendment waiving certain fees agreed to.

-- By voice vote Bedell substitute amendment to Stenholm amendment on label changes by rulemaking agreed to.

-- By a show of hands vote of 16 yeas-5 nays Stenholm amendment on label changes by rulemaking, as amended, adopted.

-- Without objection Morrison amendment on lack of essentiality withdrawn in favor of report language.

-- Without objection Madigan amendment to Bedell substitute amendment to Stenholm amendment on chlorobenzilate agreed to.

-- By voice vote Bedell substitute amendment, as amended, to Stenholm chlorobenzilate amendment agreed to.

-- By voice vote Stenholm chlorobenzilate amendment, as amended, approved.

-- Without objection Stenholm amendment on unlawful acts reformed.

-- Without objection Stenholm amendment on unlawful acts, as reformed, adopted.

-- By voice vote Morrison amendment on worker health and safety agreed to.

-- Without objection Morrison report language on worker health and safety adopted.

-- Without objection Brown amendment on cost sharing withdrawn.

-- By voice vote Bedell amendment on tolerances approved.

Chairman de la Garza called the meeting to order for the purpose of continuing consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986. See attached Committee Print and summary incorporating the amendments adopted at the June 5 meeting.

Wednesday, June 11, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 2482

The Chairman read the bill by title for the purpose of considering amendments. He advised that Members not present at the time a title is called would be protected to offer their amendments at a later time.

Mr. Hatcher offered the attached amendment to title III. The proposal would make clear that the Administrator would have the authority to waive certain fees for small businesses and defines small businesses for this purpose. Discussion occurred and by a voice vote the amendment was agreed to.

Reservations were made for Mr. Madigan and Mr. Stangeland to offer possible amendments to title III and Mr. Glickman to title IV.

Mr. Stenholm offered the attached amendment to title VII which would permit an individual without an economic interest in chlorobenzilate to request a hearing, and further places the burden of proof on the person requesting the hearing. Discussion occurred.

Mr. Bedell offered the attached substitute amendment to the Stenholm amendment. The Bedell substitute would provide that those without an economic interest could ask for a hearing but it would be up to the Administrator to determine if sufficient grounds were present to hold a hearing. Discussion continued. Without objection the amendments were passed over without prejudice to enable the Members to obtain further information on the amendments.

Mr. Stenholm offered a further amendment to require label changes by rulemaking (copy attached). Discussion occurred.

Mr. Bedell offered the attached language as a substitute for the last line of the Stenholm amendment, and discussion continued. By a voice vote the Bedell amendment was agreed to; whereupon by a show of hands vote (16 yeas-5 nays) the Stenholm amendment, as amended by Mr. Bedell, was approved. Mr. Bedell and Mr. Stenholm were given permission to continue working on the amendment to see if further minor changes in wording were required.

Wednesday, June 11, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 2482

Mr. Morrison offered the attached amendment on lack of essentiality to title VIII. Discussion occurred and Mr. Morrison asked unanimous consent to withdraw the amendment in favor of report language based on the amendment which he would prepare and offer at the appropriate time. There was no objection.

Mr. Bedell advised that there was some language in the amendment by Mr. Stenholm which had been approved which was of concern to EPA and asked that Mr. Stenholm work with staff, EPA and himself to work out the concerns. There was no objection.

The Committee returned to consideration of the first Stenholm amendment and Bedell subsitute. Both members were recognized to explain their positions.

Mr. Madigan asked unanimous consent to revise the Bedell substitute to strike the words "it appears to the Administrator that", the words on line 6 "genuine and", and to add on line 7 after "fact" the words "as determined by the Administrator". Discussion occurred and without objection the Madigan suggestion was agreed to. The Bedell substitute, as amended, was then approved by a voice vote. The Stenholm amendment, as amended, was adopted by a voice vote.

Mr. Hatcher reserved the right to offer an amendment to title XI to enable him to work out language. Mr. Emerson reserved the right for himself and Mr. Volkmer to offer amendments to title XII.

Mr. Stenholm offered the attached unlawful acts amendment and discussion occurred . Without objection, Mr. Stenholm reformed his amendment to delete the references to sections 3(a), 19(a), and 25(c). Without objection the Stenholm amendment, as amended, was approved.

Mr. Morrison offered the attached amendment and report language on worker health and safety. Discussion occurred. By a voice vote the amendment was agreed to. Without objection, the report language was approved.

Mr. Brown offered the attached amendment on cost sharing and discussion occurred. Without objection the amendment was withdrawn without prejudice to enable Mr. Brown to perfect the amendment.

Wednesday, June 11, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Mr. Bedell offered the attached amendment on tolerances and discussion occurred. By a voice vote the amendment was agreed to.

Mr. Madigan reserved the right to offer an amendment to title XXI when groundwater proposals were considered.

Mr. Stenholm offered the attached one-bite rule amendment and discussion occurred.

At 5:55 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Thursday, June 12, for further consideration of the pending Stenholm amendment and other amendments to H.R. 2482. During the proceedings, recesses were taken at 2:05 and 3:45 p.m. to enable Members to respond to recorded votes on the House floor.

Glenda Temple

Glenda Temple

[COMMITTEE PRINT]

[Showing H.R. 2482 As Amended by the Committee on Agriculture on June 5, 1986]

99TH CONGRESS
2D SESSION

H. R. 2482

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1985

Mr. BEDELL (for himself and Mr. ROBERTS) introduced the following bill; which was referred to the Committee on Agriculture

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 14, 1985]

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—PREREGISTRATION ACCESS TO DATA

Sec. 101. Preregistration access to data.
Sec. 102. Criminal penalties for disclosure of information.

TITLE II—CONDITIONAL REGISTRATION

Sec. 201. Conditional registration.

TITLE III—REREGISTRATION AND REVENUES

Sec. 301. Definition of outstanding data requirement.
Sec. 302. Reregistration of registered pesticides.

TITLE IV—INERT INGREDIENTS

Sec. 401. Administrator's authority to require data on inert ingredients.
Sec. 402. Definition of ingredient statement.
Sec. 403. Disclosure of inert ingredients.

TITLE V—PUBLIC RIGHT TO KNOW

Sec. 501. Public right to know.

TITLE VI—DATA DISCLOSURE TO STATES

Sec. 601. Data disclosure to States.

TITLE VII—CANCELLATION PROCEDURES

Sec. 701. Public interim administrative review.
Sec. 702. Proceedings under section 6.
Sec. 703. Cancellation and change in classification or labeling.
Sec. 704. Public hearings and scientific review.
Sec. 705. Administrative changes.

TITLE VIII—FALSE OR INVALID DATA

Sec. 801. Cancellation of registration based on false or invalid data.
Sec. 802. Records.

TITLE IX—INSPECTIONS

Sec. 901. Inspections.

TITLE X—EXPORT OF PESTICIDES

Sec. 1001. Definition of misbranded.
Sec. 1002. Definition of importing country.
Sec. 1003. Pesticides and devices intended for export.
Sec. 1004. Cancellation notices furnished to foreign governments.
Sec. 1005. Cooperation in international efforts.
Sec. 1006. Tolerances and regulations for agricultural commodities.

TITLE XI—LIABILITY

Sec. 1101. Liability.

TITLE XII—CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

Sec. 1201. Certification, training, and recordkeeping amendments.

TITLE XIII—STATE AUTHORITY

Sec. 1301. State registrations.

TITLE XIV—DEFINITIONS

Sec. 1401. Definitions.

TITLE XV—INFORMATION REQUESTED

Sec. 1501. Information requested.

TITLE XVI—STATE COOPERATION, AID, AND TRAINING

Sec. 1601. Cooperative agreements.

TITLE XVII—SCIENTIFIC ADVISORY PANEL

Sec. 1701. Term.

TITLE XVIII—STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Sec. 1801. Authority for EPA action.

TITLE XIX—UNLAWFUL ACTS

Sec. 1901. Unlawful acts.

TITLE XX—PENALTIES

Sec. 2001. Penalties.

TITLE XXI—CONGRESSIONAL REVIEW

Sec. 2101. Congressional review.

TITLE XXII—REVIEW OF REGULATIONS

Sec. 2201. Review of regulations.

TITLE XXIII—DELEGATION AND COOPERATION

Sec. 2301. Delegation and cooperation.

TITLE XXIV—INDEMNITIES

Sec. 2401. Report by EPA.

TITLE XXV—RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER

Sec. 2501. Definition of groundwater.
Sec. 2502. Protection of groundwater.

TITLE XXVI—AUTHORIZATION FOR APPROPRIATIONS

Sec. 2601. Authorization for appropriations.

TITLE XXVII—MISCELLANEOUS

Sec. 2701. IR4 program.
Sec. 2702. Pesticide risk rating.
Sec. 2703. Study.
Sec. 2704. Definition.

TITLE XXVIII—CLARIFYING AND TECHNICAL AMENDMENTS

Sec. 2801. Clarifying amendments.
Sec. 2802. Technical amendments.

TITLE XXIX—TABLE OF CONTENTS AMENDMENTS

Sec. 2901. Table of contents amendments.

TITLE XXX—EFFECTIVE DATE

Sec. 3001. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—PREREGISTRATION ACCESS TO DATA

SEC. 101. PREREGISTRATION ACCESS TO DATA.

(a) IN GENERAL.—Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end thereof the following new paragraph:

"(9) PREREGISTRATION ACCESS TO DATA.—

"(A) If an application for—

"(i) a registration of a pesticide containing a new active ingredient, or

"(ii) a registration of a pesticide to authorize the initial food use of a pesticide active ingredient,

is submitted to the Administrator, the Administrator, shall before approving such application, provide, in accordance with this paragraph, public access to health, safety, and environmental data that are submitted or cited in support of such application.

"(B) To obtain access to the data referred to in subparagraph (A), a person shall send by certified mail—

"(i) not later than 30 days after the publication under paragraph (4) of a notice

of the application referred to in subparagraph (A), and

"(ii) simultaneously to the Administrator and to the applicant for the registration of the pesticide,

a request for such access and the affirmation required by subparagraph (D).

"(C)(i) Unless within 15 days after the Administrator's receipt of a request for access to such data and of an affirmation complying with subparagraph (D) the applicant submits to the Administrator an objection to the request asserting that the affirmation is inaccurate and the reasons for the objection, the Administrator shall grant the request. If an objection to a request is submitted to the Administrator within such 15-day period, the Administrator shall determine whether to grant the request within 5 days of the receipt of the objection. If the Administrator determines to grant the request, access shall not be permitted until 5 days after the applicant making the objection has been notified that access has been granted.

"(ii) If access to data is denied under clause (i), comments on the application for which such

data were submitted shall be filed within 60 days from the decision of the Administrator denying access.

"(D)(i) Data referred to in subparagraph (A) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator considers necessary) containing the information prescribed by clause (ii).

"(ii) The affirmation required under clause (i) shall—

"(I) state that the person is neither employed by nor acting, directly or indirectly, on behalf of any other person or entity, or affiliate thereof, engaged in the production, sale, or distribution of a pesticide,

"(II) identify any business, employer, or other person, if any, on whose behalf the person is requesting access to the data, and

"(III) state that the person will not intentionally or recklessly violate this paragraph.

For purposes of this clause, an affiliate of a person or entity is a person who directly or indirectly, through one or more intermediates, controls *or is controlled by or is under common control with the person or entity.*

"(iii) Section 1001 of title 18, United States Code, shall apply to an affirmation made under this subparagraph.

"(E)(i) Data supporting an application may be made available under subparagraph (A) to a person only for the purpose of permitting the person to comment to the Administrator on such application. Such comments may reasonably quote data submitted to the Administrator. No person, including the Administrator, may make such comments public before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(ii) Except as provided in clause (iii), data obtained under subparagraph (A) may not be—

"(I) published, copied, or transferred to any other individual or entity to obtain approval to sell, manufacture, or distribute a pesticide anywhere in the world, or

"(II) used for any purpose in any court or agency of the United States or any State

or political subdivision thereof before the decision of the Administrator on the application for the registration of the pesticide for which such data were submitted or after such decision if the application for registration is denied.

"(iii) Such data and comments may be disclosed consistent with section 10 after registration of the pesticide for which such data were submitted.

"(F)(i) Data made available under this paragraph may be examined at an office of the Environmental Protection Agency or an appropriate State agency under the conditions prescribed by this paragraph and may not be removed from such office.

"(ii) The Administrator shall maintain a record of the persons who inspect data. A copy of such record shall be sent to the data submitter upon request.

"(G) Once access to data respecting an application is granted, the data may be examined and notes may be taken for use in developing comments on the application. Such comments on the application shall be filed within 60 days,

unless extended by the Administrator for an additional 30 days for good cause.".

(b) NOTICE OF APPLICATION.—Section 3(c)(4) (7 U.S.C. 136a(c)(4)) is amended—

(1) in the first sentence, by striking out "promptly" and inserting in lieu thereof "not later than 30 days", and

(2) in the second sentence, by striking out "30" and inserting in lieu thereof "60".

SEC. 102. CRIMINAL PENALTIES FOR DISCLOSURE OF INFORMATION.

Paragraph (3) of section 14(b) (7 U.S.C. 136l(b)(3)) is amended to read as follows:

"(3) DISCLOSURE OF INFORMATION.—

"(A) Any person who, with intent to defraud, uses or reveals information relative to the formula of a product acquired under section 3(c)(9), shall be fined not more than $25,000, or imprisoned for not more than 3 years, or both.

"(B) Any person, including any officer, contractor, or employee of the United States or a State, who—

"(i) is granted access to data under section 3(c)(9), and

"(ii) in furtherance of a commercial purpose involving the production, registration, distribution, or sale of a pesticide—

"(I) knowingly violates such section, or

"(II) knowingly allows data to be made available in violation of such section,

shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.".

TITLE II—CONDITIONAL REGISTRATION

SEC. 201. CONDITIONAL REGISTRATION.

Subparagraphs (B) and (C) of section 3(c)(7) (7 U.S.C. 136a(c)(7)) are amended to read as follows:

"(B)(i) Except as provided in clauses (ii), (iii), and (iv), the Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding the fact that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that—

"(I) the applicant has submitted or cited the additional data that the Administra-

tor may require solely for the proposed additional use,

"(II) amending the registration in the manner proposed by the applicant would not materially increase the risk of any unreasonable adverse effect on the environment, and

"(III) the additional use is in the public interest.

"(ii)(I) Except as provided in subclause (II), if the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), no registration of the pesticide may be amended under clause (i) during the pendency of any evaluation by the Administrator initiated by such notice.

"(II) If the Administrator has issued a notice stating that a pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure and specified in regulations issued under paragraph (8), the Administrator may amend the registration of a pesticide under clause (i) to add a

minor food or feed use if the Administrator determines, with the concurrence of the Secretary of Agriculture, that there is not available an effective alternative pesticide that does not meet or exceed such risk criteria.

"(iii) An applicant seeking an amended registration of a pesticide under this subparagraph shall submit or cite to the Administrator such data as would be required to obtain a registration of a similar pesticide under paragraph (5). Except as provided in clause (iv), if the applicant is unable to submit or cite an item of such data because it has not yet been generated, the Administrator may amend the registration of a pesticide under such conditions as will require the submission or citation of such data not later than the time such data are required to be submitted for the maintenance of a registration of a similar pesticide under this section.

"(iv) If data concerning chronic dosing, toxicity, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity are required to support the registration of a pesticide and if a period reasonably sufficient for the generation and submission of such data has elapsed

since the Administrator first imposed the data requirement, a conditional amendment to permit an additional use of the pesticide for other than a minor use shall not be granted under clause (i) unless such data have been submitted.

"(C)(i) Except as provided in clauses (ii) and (iii), the Administrator may conditionally register a pesticide containing an active ingredient not contained in any registered pesticide for a period reasonably sufficient for generation and submission of required data that have not been submitted because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement (I) on the condition that by the end of such period the Administrator receives such data and that the data that the Administrator receives do not meet or exceed risk criteria enumerated in regulations issued under paragraph (8), and (II) on such other conditions as the Administrator may prescribe are met.

"(ii) A conditional registration under this subparagraph shall be granted only if the Administrator determines that—

"(I) use of the pesticide during the period referred to in clause (i) will not cause any unreasonable adverse effect on the environment, and

"(II) use of the pesticide is in the public interest.

"(iii) The Administrator shall not conditionally register a pesticide under this subparagraph if data concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, or teratogenicity would be required for registration of such a product under subsection (c)(5), if a period reasonably sufficient for generation of such data has elapsed since the Administrator first imposed the data requirement, and if such data have not been submitted to the Administrator.".

TITLE III—REREGISTRATION AND REVENUES

SEC. 301. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following new subsection:

"(ff) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means any study, required information,

or data necessary to make a determination under section 3(c)(5) that—

"(A) has not been submitted to the Administrator; or

"(B) has been submitted to the Administrator but which the Administrator determines is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued thereunder.

"(2) FACTORS.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 302. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES.

"(a) GENERAL RULE.—The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any

pesticide as to which the Administrator has determined after November 1, 1984, and before the effective date of this section, that—

"(1) there are no outstanding data requirements, and

"(2) the requirements of section 3(c)(5) have been satisfied.

"(b) *Special Authorities of Administrator.—*

"(1) *Guidelines.—Not later than one year after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall by order issue guidelines to be followed by registrants in—*

"(A) summarizing studies,

"(B) reformatting studies,

"(C) identifying adverse information, and

"(D) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section,

in accordance with subsection (f)(1). Guidelines issued under this paragraph shall not be subject to judicial review.

"(2) MONITORING.—The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under this section.

"(3) SUSPENSIONS AND PENALTIES.—

"(A) The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if—

"(i) the Administrator determines that progress is insufficient to ensure the submission of the data required under an agreement entered into under subsection (e)(3)(B) or (f)(1)(H) within the time period prescribed by subsection (e)(4)(B) or (f)(2)(B) or the registrant has not submitted such data to the Administrator within such time period,

"(ii) the Administrator determines that necessary tests to fill an outstanding data requirement for such pesticide have not been initiated within 1 year of the issuance of a notice under paragraph (1)(B) of subsection (g),

"(iii) the Administrator determines that progress is insufficient to ensure completion of tests referred to in clause (ii) within the

time period prescribed by paragraph (2) of subsection (g) or the required test data have not been submitted to the Administrator within such time period, or

"(iv) a registrant fails to comply with clause (ii) or (iii) of section 3(c)(2)(B) of such Act.

"(B) A registrant who submits a certification under subsection (f)(1) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14(a).

"(c) REREGISTRATION PHASES.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (d) of the active ingredients of the pesticides that will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (e) of a notice by registrants respecting their intention to seek reregistration, an identification by registrants of missing and inadequate data for such pesticides, and an agreement by the registrant to replace such missing or inadequate data within the applicable time period.

"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (f).

"(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (g) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (h) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(d) PHASE ONE.—

"(1) PRIORITY FOR REREGISTRATION.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986) that—

"(A) are in use on or in food or feed and may result in postharvest residues,

"(B) may result in residues of potential toxicological concern in potable groundwater, edible fish, or shellfish,

"(C) have been determined by the Administrator before the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 to have significant outstanding data requirements, or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) REREGISTRATION LISTS.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 60 days after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list pesticide active ingredients for which registration standards have been issued before such date,

"(B) not later than 4 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the first 150 pesticide active ingredients, as determined under paragraph (1),

"(C) not later than 7 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the second 150 pesticide active ingredients, as determined under paragraphs (1), and

"(D) not later than 10 months after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, list the remainder of the pesticide active ingredients.

Each list shall be published in the Federal Register.

"(3) JUDICIAL REVIEW.—The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

"(4) NOTICE TO REGISTRANTS.—Upon the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (e) if they intend to seek or not to seek reregistration of such pesticides.

"(e) PHASE TWO.—

"(1) IN GENERAL.—The registrant of a pesticide that contains an active ingredient listed under subpara-

graph (B), (C), or (D) of subsection (d)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in paragraph (2) and any information, agreement, or offer described in paragraph (3).

"(2) NOTICE OF INTENT TO SEEK REREGISTRATION.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) shall notify the Administrator by certified mail if the registrant intends to seek or does not intend to seek reregistration of the pesticide.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3 an identification of—

"(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient,

"(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

"(iii) data identified under clause (i) that have not been submitted to the Administrator; and

"(B) either—

"(i) an agreement to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B), or

"(ii) an offer to share in the cost to be incurred by a person who has agreed under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (f) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be presumed to be inadequate if the data are derived from a study submitted before January 1, 1970, unless the registrant who would be required to identify such data demonstrates to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

"(4) TIME PERIODS.—

"(A) A submission under paragraphs (2) and (3) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 3 months after the date of publication of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 3 months after

the date of publication of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

Upon application, the Administrator may extend the time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the applicant prevent the applicant from complying with such period.

"(B) A registrant shall submit data in accordance with an agreement entered into under paragraph (3)(B) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of an agreement under paragraph (3)(B). The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of an intent to cancel the registration of such registrant for such pesticide. Before issuing such a notice the Administrator shall provide by notice in the Federal Register 60 days for the submission of comments on the notice. Upon expiration of such 60 days, the Administrator may by order cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

"(B) If no registrant of a pesticide containing a particular active ingredient listed pursuant to subsection (d)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient, if no such registrant complies with paragraph (3)(A), or if no such registrant agrees under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A), or if the fee prescribed by

subsection (j)(1) has not been paid with regard to the active ingredient, the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (d)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient, and shall provide 60 days for comment on such notice. After the 60-day period has expired the Administrator may by order cancel any such registration without hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

"(i) during the comment period a person acquires the registrant's rights in that registration,

"(ii) during the comment period that person furnishes a notice of intent to reregister the pesticide product in accordance with paragraph (2), and

"(iii) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (j)(1) has been paid.

"(f) Phase Three.—

"(1) Information about studies.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (d)(2) who has submitted a notice under subsection (e)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under subsection (b)(1), to the Administrator—

"(A) a summary of each study, previously submitted in support of the registration of the pesticide by the registrant, on such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section,

"(B) a summary of each study in support of the registration previously submitted to the Administrator by the registrant that may or may not comply with regulations issued by the Administrator under section 3 but which the registrant asserts comply with such regulations,

"(C) a reformat of the data from each study summarized under subparagraph (A) or (B) concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that

were submitted to the Administrator before January 1, 1982,

"(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and sub-chronic dosing data submitted to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section,

"(E) an identification of data that are required to be submitted to the Administrator under section 6(g)(4) and that indicate an adverse effect of the pesticide,

"(F) an identification of any other information available that in the registrant's view supports the registration,

"(G) a certification that the registrant possesses or has access to the raw data used in or generated by the studies summarized under subparagraph (A) or (B),

"(H) either—

"(i) an agreement to submit data to fulfill each outstanding data requirement identified by the registrant, or

"(ii) an offer to share in the cost of developing such data to be incurred by a person who has agreed to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing, and

"(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 12 months after the date of publication of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with an agreement entered into under subparagraph (H) of paragraph (1) within a reasonable period of time as determined by the Administrator but not more than 48 months after the date the registrant made the submission of the agreement under such subparagraph. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) CANCELLATION.—

"(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator shall by order and without hearing cancel the registration of such pesticide.

"(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information is not in conformity with the requirements for the form of submission established by the Administrator, the Administrator shall determine whether the registrant made a good faith attempt to meet such requirements.

"(ii) If the Administrator determines that the registrant made a good faith attempt, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

"(iii) If the Administrator determines that the registrant did not make a good faith attempt, the Administrator may issue a notice of intent to cancel the registration that shall be sent to the registrant by certified mail. The cancellation shall become final and effective at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant. If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a

good faith attempt to comply with the requirements for the form of the submission. Such a hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

"(g) PHASE FOUR.—

"(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.—

"(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (e)(3) and (f)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the Administrator's review under this section, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (f)(1).

"(B) The Administrator shall independently identify and publish in the Federal Register a list of each outstanding data requirement for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is contained in a pesticide to be reregistered under this section. The Administrator shall also

at the same time issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirement.

"(2) TIME PERIODS.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(B), not later than 18 months after the date of the listing of such active ingredient,

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(C), not later than 24 months after the date of the listing of such active ingredient, and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (d)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time as determined by the Administrator but not

to exceed 48 months after the issuance of such notice. The Administrator may, upon application of a registrant, extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(h) PHASE FIVE.—

"(1) DATA REVIEW.—The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed pursuant to subsection (d)(2) and of all other available data found by the Administrator to be relevant.

"(2) REREGISTRATION AND OTHER ACTIONS.—

"(A) ELIGIBILITY FOR REREGISTRATION.—After conducting the review of data concerning an active ingredient prescribed by paragraph (1), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration.

"(B) PRODUCT-SPECIFIC DATA.—Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the pesticide by use of section 3(c)(2)(B) and

shall review such data. The Administrator shall require that data under this subparagraph be furnished to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of particular data.

"(C) REREGISTRATION.—After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide should be reregistered, the Administrator shall reregister such pesticide within 1 year of the submission of the data concerning such pesticide under subsections (g) and (h)(2)(B). For extraordinary circumstances the Administrator may extend the period for reregistration for not more than 1 additional year.

"(D) OTHER ACTION.—If after conducting a review under paragraph (1) or subparagraph (B)

of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

"(i) COMPENSATION OF DATA SUBMITTER.—If data that are submitted by a registrant under subsection (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

"(j) FEES.—

"(1) INITIAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major use on food or feed shall collectively pay a fee of $50,000 upon submission of information under paragraphs (2) and (3) of subsection (e) for such ingredient.

"(2) FINAL FEE FOR FOOD OR FEED PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is an active ingredient of any pesticide registered for a major use on food or feed shall collectively pay a fee of $100,000 (A) upon submission of information for such ingredient under paragraph (1) of subsection (f) if data are reformatted under subsection (f)(1)(C), or (B) upon submission of data for such ingredient under subsection (f)(2)(B) if data are not reformatted under subsection (f)(1)(C).

"(B) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (A) of subsection (d)(2) and that is contained in any pesticide that is registered for a major use on food or feed shall collectively pay a fee of $100,000 at such time as the Administrator shall prescribe.

"(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (d)(2) and that is not contained in any pesticide that is

registered for a major use on food or feed shall collectively pay fees in an amount determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the time corresponding to the time fees prescribed by paragraphs (1) and (2) are to be paid.

"(B) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (A) of subsection (d)(2) and that is not contained in any pesticide that is registered for a major use on food or feed shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

"(A) In the case of an active ingredient of a pesticide that is registered solely for agricultural or non-agricultural minor use or where value of volume or use is small, the Administrator may, upon application and in the sole discretion of the Administrator, reduce or waive the fees prescribed by paragraph (3).

"(B) In the case of an antimicrobial pesticide that contains active ingredients for which production levels do not exceed 1,000,000 pounds per year, the Administrator may, upon application, and in the sole discretion of the Administrator, reduce or waive the fees prescribed by paragraph (3).

"(5) OTHER FEES.—On payment of fees for the reregistration of a pesticide in accordance with paragraphs (1), (2), (3), or (4) the Administrator may not levy any other fees for the reregistration with respect to that active ingredient.

"(6) APPORTIONMENT.—If two or more registrants are required to pay any fee prescribed by this subsection with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the three calendar years preceding the date of payment of such fee.

"(k) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (e), (f), (g), and (j) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the

person would not be required to submit or cite such data in order to obtain an initial registration of such pesticide.

"(l) Revolving Fund.—

"(1) There shall be established in the Treasury of the United States a revolving fund.

"(2) All fees collected by the Administrator under subsection (j) shall be deposited into the revolving fund and shall be available to the Administrator, without fiscal year limitation, to carry out this section.

"(3) Money in the revolving fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(4) The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the revolving fund; and

"(B) take all steps necessary to insure that expenditures of such funds are solely utilized to carry out this section.

"(m) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under section 16.".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 3 (7 U.S.C. 136a(g)) is repealed.

(c) DEFINITION.—

(1) Section 2 (7 U.S.C. 136) (as amended by section 301) is amended by adding at the end the following:

"(gg) ANTIMICROBIAL.—The term 'antimicrobial' means used on a food or feed crop, including—

"(1) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects,

"(2) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces or in water or air,

"(3) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture, or

"(4) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces.".

(2) Section 2(u) is amended by striking out "and" immediately before the first clause (2), by adding ", and" at the end of the first clause (2), and

by adding a new clause (3) as follows: "(3) any substance or mixture of substances intended for use as an antimicrobial".

TITLE IV—INERT INGREDIENTS

SEC. 401. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS.

(a) SECTION 3(c)(2)(A).—Subsection (c)(2)(A) of section 3 (7 U.S.C. 136a(c)(2)(A)) is amended by inserting after "any additional kind of information under subparagraph (B) of this paragraph" the following: "including information regarding an inert ingredient in a pesticide".

(b) SECTION 3(c)(2)(B).—Subsection (c)(2)(B) of section 3 (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

> *"(vi) If the Administrator determines that additional data are required for an inert ingredient in a registered pesticide, the Administrator shall request such data from each registrant of such pesticide and, pursuant to this Act or other available authority, from producers of the inert ingredient."*

SEC. 402. DEFINITION OF INGREDIENT STATEMENT.

Subsection (n) of section 2 (7 U.S.C. 136(n)) is amended to read as follows:

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement that contains—

"(1) the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide;

"(2) the name of each inert ingredient in a pesticide that the Administrator determines must appear in the ingredient statement because of the hazard that the Administrator has determined may be posed by the use pattern and concentration level of the inert ingredient in the pesticide;

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic; and

"(4) any other information concerning the chemical composition or identity of any active ingredient of the product, including information on chemical equivalency, that the Administrator requires to appear on the ingredient statement in order that the nature of the active ingredient is accurately represented.".

SEC. 403. DISCLOSURE OF INERT INGREDIENTS.

Section 10(d) (7 U.S.C. 136h(d)) is amended in the first sentence of paragraph (3) by striking out "If" and inserting in lieu thereof "Except with respect to disclosure of *information on inert ingredients in inert ingredient statements in accordance with section 2(n), if".*

TITLE V—PUBLIC RIGHT TO KNOW

SEC. 501. PUBLIC RIGHT TO KNOW.

(a) FACT SHEETS AND REPORTS.—Section 7 (7 U.S.C. 136e) is amended by adding at the end thereof the following new subsection:

"(e) PUBLIC RIGHT TO KNOW.—

"(1) Any producer operating an establishment in any State shall prepare or obtain a fact sheet complying with this subsection for each active ingredient manufactured or used at the establishment. The producer shall maintain copies of the fact sheet at the establishment and shall furnish a copy to any person upon request.

"(2) Each fact sheet for an ingredient required under paragraph (1) shall—

"(A) contain the chemical name, each common name, and any trade name of the ingredient and a summary of relevant health, safety, and environmental data concerning the ingredient, and

"(B) be revised as often as is necessary for it to reflect available information about the ingredient.

The Administrator may require a fact sheet to be amended to provide accurate and clear information to the public.

"(3) Each producer to whom this subsection applies shall furnish to the Administrator annually, in accordance with regulations published by the Administrator, a report that includes—

"(A) for each establishment operated by the producer in any State, the name of each ingredient for which a fact sheet is required that is manufactured or used at that establishment; and

"(B) for each ingredient for which a fact sheet is required, the location of each establishment where such ingredient is manufactured or used by the producer; and

"(C) a copy of the most current version of each required fact sheet.

"(4) The fact sheets required by paragraph (1) and the annual reports required by paragraph (3) shall be available to the public.".

(b) CONFIDENTIAL INFORMATION.—Section 7(d) (7 U.S.C. 136e(d)) is amended by inserting "and production locations" after "names".

TITLE VI—DATA DISCLOSURE TO STATES

SEC. 601. DATA DISCLOSURE TO STATES.

(a) STATES.—Section 10 (7 U.S.C. 136h) is amended by adding at the end thereof the following new subsection:

"(h) DATA DISCLOSURE TO STATES.—

"(1) IN GENERAL.—The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator and the Administrator determines that the owner of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section.

"(2) ACTION FOR JUST COMPENSATION.—For the purpose of any action that may lie against the United States for just compensation under section 1491 of title 28, United States Code—

"(A) the disclosure or use of data or information provided by the Administrator under paragraph (1) to a State in a manner inconsistent with this section or section 3 shall be considered a taking of property; and

"(B) the act of a State with respect to such data or information shall be considered an act of the United States.

"(3) Required Disclosure.—The Administrator shall disclose to a State any data or information acquired under this Act if the State assures the Administrator and the Administrator determines that—

"(A) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is provided by section 3 and this section, and

"(B) the law of the State allows the submitter of the data or information to recover just compensation in a civil action against the State for losses occasioned by the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with section 3 or this section.".

(b) Data System.—Section 31 (7 U.S.C. 136y) is redesignated as section 34 and the following new section is inserted after section 30:

"SEC. 31. COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

"(a) DATA SYSTEMS.—The Administrator shall establish, administrate, and be responsible for the continuing activities of an agency committee that shall design, establish, and coordinate an efficient system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies or States and the use of the data submitted to the Administrator under this Act. The Administrator shall complete, within 36 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the design and implementation of the system and procedures required by this subsection. The agency committee so established shall solicit advice from data users outside the Federal Government through means of an advisory committee that shall consist of representatives from private groups, State governments and organizations, industry, and other representatives as may be appropriate.

"(b) DATA RETRIEVAL.—The Administrator shall, in consultation and cooperation with the Secretary of Agriculture and other heads of appropriate Federal and State departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of pesticidal, toxicological, and other scientific data that could be useful to the Administrator in carrying out this Act. Systematized retrieval shall be developed for use by all Federal and State

departments and agencies with responsibilities in the area of regulation or study of pesticides and their effect on man and the environment.

"(c) INDEX.—In designing and implementing the systems required by subsections (a) and (b), the Administrator shall be responsible for indexing information previously submitted and information submitted after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 by pesticide name, Chemical Abstracts Service registry number, plant sites by State, and submitter, so that information can be retrieved in a timely and useful manner.

"(d) REPORT.—The Administrator shall, within 24 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, submit a report to the Congress on the progress in designing and implementing the system for information management required by this section. The report shall address the handling of information submitted before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 as well as the procedures established to assure that information collected after such date will adhere to the provisions of this section.

"(e) Confidentiality.—Dissemination of information and data collected under this section to any State shall be subject to section 10.

"(f) Authorization.—There are authorized to be appropriated for fiscal years 1987, 1988, 1989, and 1990 to carry out this section such sums as may be necessary but not more than $500,000 for any fiscal year.".

TITLE VII—CANCELLATION PROCEDURES

SEC. 701. PUBLIC INTERIM ADMINISTRATIVE REVIEW.

(a) Section 3(c)(8).—Paragraph (8) of section 3(c) (7 U.S.C. 136a(c)(8)) is amended to read as follows:

"(8) Public interim administrative review proceedings.—

"(A) In general.—A public interim administrative review process to determine whether the use of a pesticide (including a category of pesticides) may pose unreasonable adverse effects to humans or the environment shall be conducted in accordance with this paragraph.

"(B) Criteria for initiating a public interim administrative review.—

"(i) Criteria for initiating a public interim administrative review of a pesticide

shall be set forth in regulations published by the Administrator.

"(ii) Such criteria shall be established on the basis of levels of risk and may include consideration of currently available exposure data.

"(iii) Absence of exposure data shall not delay or preclude initiation of a public interim administrative review. The Administrator may decline to initiate a public interim administrative review solely on the basis of exposure only if adequate data on all relevant means of exposure have been considered.

"(C) REVIEW REQUIREMENT.—The Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses before initiating a formal action to cancel, suspend, or deny the registration of such pesticide required under this Act unless such public interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

"(D) PRE-REVIEW NOTICE PROCEDURES.—

"(i) On receipt of information respecting a pesticide demonstrating that the criteria for initiating a public interim administrative review established under subparagraph (B) have been met, the Administrator shall immediately notify all registrants of such pesticide and provide the registrants with appropriate information and an explanation of the manner in which the criteria have been met.

"(ii) Not later than 30 days after receipt of such notice, a registrant may respond to such notice.

"(iii) Not later than 30 days after the Administrator receives a response from a registrant, the Administrator shall determine whether a public interim administrative review of the pesticide shall be initiated.

"(E) NOTICE.—If the Administrator intends to initiate a public interim administrative review of a pesticide that is registered for agricultural uses, the Administrator shall notify the Secretary

of Agriculture of the intention to initiate such review and the reasons therefor.

"(F) REVIEW PROCEDURE.—

"(i) Any public interim administrative review proceeding shall be initiated and conducted in accordance with regulations published by the Administrator. Such regulations shall provide that a public interim administrative review shall consist of—

"(I) a notice of initiation of a public interim administrative review and opportunity for public comment on such notice,

"(II) a notice of a preliminary determination and opportunity for public comment on such notice, and

"(III) a notice of a final determination,

except that such regulations may authorize the Administrator to combine or forego any such notice.

"(ii) Any proposed determination of the Administrator shall be submitted to the Scientific Advisory Panel established under section 25(d) at the next scheduled meeting of

the panel for comment solely on relevant scientific issues. The public may submit comments to the Scientific Advisory Panel concerning such issues.

"(iii) The notice of the initiation of a public interim administrative review or the notice of a preliminary determination shall state the basis for such review or determination and include a request for any additional data needed and a bibliography of all scientific data and studies and expert analysis concerning those risks or benefits of the pesticide that are under review. Information in the bibliography shall be made available to the public consistent with the requirements of section 10. The Administrator shall determine, to the extent feasible, before the initiation of the public interim administrative review which data in the bibliography may be disclosed to the public under section 10(d)(1). If the Administrator receives additional data concerning such risks or benefits, the Administrator shall, within 30 days of receiving the additional data, revise the bibli-

ography to reflect such data and make the revised bibliography available to the public.

"(iv) Not later than 90 days after the publication of a notice of the initiation of a public interim administrative review or a notice of a preliminary determination, comments may be submitted on such review or determination. Any person who submits comments shall disclose to the Administrator all scientific data and studies and expert analysis in such person's possession concerning those risks or benefits of the pesticide that are under review that were not included in the bibliography included in such notice. If such person receives additional scientific data or studies or expert analysis of such data or studies that were not included in such bibliography, such person shall disclose such scientific data, studies, and expert analysis to the Administrator within 30 days of receipt.

"(v) Not later than 18 months after the initiation of a review, the Administrator shall make a decision regarding which regulatory action (if any) to take regarding the

pesticide that was the subject of the review and shall publish the decision.

"(vi) The time limits specified in this subparagraph may not be extended, except in exceptional circumstances in which—

"(I) additional data critical to a fair and accurate determination of risks posed by the pesticide subject to review are required;

"(II) the extension is for a period limited to the time required to obtain such data on an expedited basis and in no event to exceed 1 year; and

"(III) the Administrator acted to obtain the additional data at the time the public interim administrative review was initiated unless the Administrator could not have reasonably known of the need for such data at such time.

"(G) JUDICIAL REVIEW.—Any person may seek judicial review under section 16(a) of the failure of the Administrator to act within the time period prescribed under this paragraph.".

(b) SCIENTIFIC ADVISORY PANEL.—The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by

striking out "The" and inserting in lieu thereof "Except when a referral is made pursuant to section 3(c)(8)(F) to the Scientific Advisory Panel established by this subsection, the".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to public interim administrative reviews under section 3(c)(8) of the Federal Insecticide, Fungicide, and Rodenticide Act initiated after January 1, 1987.

SEC. 702. PROCEEDINGS UNDER SECTION 6.

Section 6 (7 U.S.C. 136d) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

"(f) HEARING PROCEDURES AFTER PUBLIC INTERIM ADMINISTRATIVE REVIEW.—

"(1) GENERAL RULE.—Subsection (d), as modified by the special rules of paragraphs (2) and (3) of this subsection, shall govern any hearing under subsection (d) that results from the Administrator's final determination in a public interim administrative review proceeding under section 3(c)(8) that was initiated after January 1, 1987, that included an opportunity for comment on a notice of preliminary determination issued in connection with such review, and for which the time between the first public notice for such review

under section 3(c)(8)(F) and the close of the last comment period provided for such review was not less than 180 days.

"(2) REQUEST FOR HEARING.—Any person who is adversely affected by a decision of the Administrator respecting a pesticide (including a person without an economic interest in such pesticide) following a public interim administrative review described by paragraph (1) may request a hearing in the manner provided by subsection (b)(2)(B) within 30 days of such decision. A person may request a hearing, or intervene in a hearing, only if that person submitted comments during the public interim administrative review proceeding and otherwise complied with section 3(c)(8)(F).

"(3) PROCEDURES.—

"(A) At the request of a party, an administrative law judge may receive into evidence portions of the public interim administrative review record and other evidence if the party demonstrates that such portions of the record and other evidence are relevant and material to the disputed issues, are not unduly repetitious, and are sponsored by a competent witness or witnesses available to be cross-examined on all matters relating to such evidence. Direct testimony of witnesses

concerning scientific data or studies that were not, but could have been, obtained and submitted in the public interim administrative review proceeding by the exercise of due diligence by the offering party shall not be admissible.

"(B) The right of other parties to confront and cross-examine such evidence shall be preserved with respect to material issues of adjudicative fact, so long as such cross examination is not unduly repetitious.

"(C)(i) Not later than 120 days after the administrative law judge is appointed, prehearing matters shall be completed and the hearing shall commence.

"(ii) The administrative law judge may establish a schedule for prehearing matters, including discovery and motions, and shall ensure that the hearing schedule is met. The administrative law judge shall issue such orders as are appropriate for the purpose of simplifying and clarifying issues, specifying the order of presentation of witnesses, and allocating the time for cross-examination, briefing, and decision.

"(iii) Discovery shall be permitted after the expiration of 120 days after the appointment of

the administrative law judge upon a determination by the administrative law judge that (I) such discovery shall not in any way unreasonably delay the proceeding, (II) the information to be obtained is not otherwise obtainable, and (III) such information has significant probative value and is necessary to obtain relevant evidence needed to resolve a material issue in dispute.

"(D) Any challenge to—

"(i) the authority to issue, or

"(ii) the procedural correctness of the issuance of,

the notice of intent to cancel or change classification or to any request for a hearing or motion to intervene shall be filed with the administrative law judge not later than 30 days before the commencement of the evidentiary phase of the hearing.

"(E) Not later than 30 days before the hearing commences, the parties shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits that the party expects to introduce into evidence.

Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended upon motion by a party.

"(F) If new studies become available that were not available during the public interim administrative review, the administrative law judge may, on request of any party and when in the judgment of the administrative law judge it is necessary, submit such studies to the Scientific Advisory Panel established under section 25(d) for supplemental comment on an expedited basis under such time limits as may be established by the administrative law judge.

"(G) The administrative law judge shall schedule the presentation and examination of witnesses so that the presentation of evidence is completed within 60 days of the commencement of the hearing, except that the schedule shall not prejudice the right of a party to present evidence. The person who requested a hearing on an issue shall have the burden of going forward to present an affirmative case and shall have the burden of proof as to that issue.

"(H) A hearing conducted in accordance with this subsection shall be completed and the

Administrator shall make a final decision within 300 days of the issuance of the notice that gave rise to the hearing. The time limit imposed by this subparagraph may not be extended, except in exceptional circumstances in which such extension is essential for a fair and accurate determination of pivotal facts central to the proceeding. In no event may such time limit be extended more than 180 days. Any other time limit imposed by this paragraph may be extended for good cause.

"(I) Failure to complete a hearing and make a final decision within the time period prescribed by subparagraph (H) shall be grounds for a civil action in a district court of the United States seeking an order to establish a schedule requiring the prompt completion of the hearing, but shall not be grounds for termination of the hearing or for making a final decision respecting the pesticide that was the subject of the hearing.".

SEC. 703. CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELING.

Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION OR LABELING.—

"(1) NOTICE OF CANCELLATION OR CHANGE IN CLASSIFICATION.—

"(A) If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of intent—

"(i) to cancel its registration or to change its classification together with the reasons (including the factual basis) for the action of the Administrator; or

"(ii) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

"(B) A notice issued under subparagraph (A) shall be sent to each registrant of the pesticide with respect to which the notice is issued and shall be made public.

"(C) In determining whether to issue a notice under subparagraph (A), the Administrator shall include among those factors to be taken into account the impact of the action proposed in such

notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

"(D)(i) Not later than 60 days before sending a notice to a registrant or making public such notice under subparagraph (B), whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of the proposed notice under subparagraph (A) and an analysis of the impact of the proposed action on the agricultural economy. The Secretary of Agriculture shall provide comments on such notice and analysis to the Administrator within 30 days of receiving the copy of such notice.

"(ii)(I) If the Secretary of Agriculture provides such comments in writing within 30 days of receiving the copy of such notice, the Administrator shall publish in the Federal Register (with the notice) the comments of the Secretary and the response of the Administrator with regard to the comments of the Secretary.

"(II) If the Secretary of Agriculture does not provide such comments in writing within 30 days of receiving the copy of such notice, the Administrator may notify the registrant and make

public the notice at any time after such 30-day period.

“(iii) The time requirements imposed by this subparagraph may be waived or modified to the extent agreed upon by the Administrator and the Secretary of Agriculture.

“(E) If the Administrator finds that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture prescribed by subparagraph (D) and of submission to the Scientific Advisory Panel under section 25(d) and proceed in accordance with subsection (c).

“(2) HEARING.—

“(A) The action proposed in a notice issued under paragraph (1)(A) shall become final and effective at the end of 30 days from receipt by the registrant or publication of a notice issued under paragraph (1)(B), whichever occurs later, unless within that time—

“(i) the registrant makes the necessary corrections, if possible; or

"(ii) a request for a hearing is made by a person adversely affected by the notice.

"(B) Whenever a request for a hearing is made, the request shall—

"(i) identify with particularity the findings and conclusions of the decision of the Administrator that are disputed; and

"(ii) include a complete statement of the reasons and factual basis that support the request for a hearing.

"(C) Any party to the proceeding may identify findings and conclusions in dispute.

"(D) If a hearing is held pursuant to such a request or the determination of the Administrator under paragraph (1)(A)(ii), a decision pertaining to registration or classification issued after completion of such hearing shall be final.

"(3) FACTORS.—In taking any action under paragraph (1), the Administrator shall—

"(A) consider restricting a use or uses of a pesticide as an alternative to cancellation and fully explain the reasons for such restriction; and

"(B) consider the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agri-

cultural economy, and publish in the Federal Register an analysis of such impact.

*"(4) L*ABELING CHANGES*.—*

"(A) If the Administrator determines that a change in the labeling of a registered pesticide—

"(i) is necessary to prevent use of the pesticide from causing unreasonable adverse effects on the environment, and

"(ii) would not (I) delete from the labeling the authority to use the pesticide on a particular crop, animal, or site, (II) render the product unmarketable, or (III) have an adverse impact on the production or price of agricultural commodities,

the Administrator may notify the registrant of such pesticide of the change proposed by the Administrator and provide that the registrant may submit comments to the Administrator on such proposed change in the 30-day period beginning on the date of the receipt of such notice. If a registrant who is notified by the Administrator of a proposed labeling change notifies the Administrator that the registrant does not object to such change, such change shall take effect as prescribed by the Administrator. If a registrant who is noti-

fied by the Administrator of a proposed labeling change does not submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a notice stating that if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be cancelled by operation of law. The registration of a registrant who does not respond to a second notice within such 30-day period shall be cancelled by operation of law.

"(B) If a registrant submits an objection to the Administrator in response to a notice under subparagraph (A) respecting a proposed labeling change, the Administrator may, by regulation issued in accordance with section 553 of title 5, United States Code, determine—

"(i) that a use of a pesticide product (or category of products) causes or will cause unreasonable adverse effects on the environment; and

"(ii) subject to the restrictions on the Administrator's authority imposed in subparagraph (A), the labeling under which the

pesticide product (or category of products) may be distributed, sold, or used without causing unreasonable adverse effects on the environment.

"(C) Any regulation issued under subparagraph (B) (and any refusal of a petition to modify or rescind such a regulation) shall be reviewable only as provided by section 16(e).

"(D) After the promulgation of a regulation under subparagraph (B), the Administrator shall notify each registrant of the pesticide subject to the regulation of the labeling required by the regulation and provide an opportunity for each registrant to apply to the Administrator for an amendment to the registration to comply with the regulation. If a registrant does not apply for such an amendment within the prescribed 30-day period, the Administrator shall issue a notice of intent to cancel the registration of such registrant. A registrant may request a hearing under subsection (d) on such notice. A user of a pesticide subject to such regulation may also request such a hearing. The scope of the hearing shall be limited to—

"(i) whether the pesticide complies with the regulation;

"(ii) whether the regulation by its terms is applicable to such pesticide; and

"(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.".

704. PUBLIC HEARINGS AND SCIENTIFIC REVIEW.

Section 6(d) (7 U.S.C. 136d(d)) is amended—

(1) by striking out the fifth through ninth sentences; and

(2) in the tenth sentence—

(A) by striking out "(including the report of the Academy)",

(B) by striking out "90 days thereafter" and inserting in lieu thereof "18 months after issuance of the notice that gave rise to the hearing", and

(C) by inserting before the last sentence the following: "The time period prescribed by the preceding sentence may be extended by the Adminstrator under extraordinary circumstances for not more than one year.".

SEC. 705. ADMINISTRATIVE CHANGES.

(a) AMENDMENT TO SECTION 6.—Subsection (g) of section 6 (7 U.S.C. 136d) (as so redesignated by section 702) is redesignated as subsection (h) and the following new subsection is inserted after subsection (f):

"(g) GENERAL PROVISIONS.—

"(1) VOLUNTARY CANCELLATION.—A registrant may at any time request that any of its pesticide registrations be cancelled or be amended to delete one or more uses. Before acting upon such request, the Administrator shall publish in the Federal Register a notice of the receipt of such a request. Thereafter the Administrator may approve such a request.

"(2) PUBLICATION OF NOTICE.—A notice of denial, notice of intent to cancel, notice of suspension, or notice of intent to suspend issued under this Act, a notice issued under subsection (d)(4) or (e)(5)(A) of section 3A, or a notice issued under the third sentence of subsection (b)(4)(A) shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after

making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

"(3) EXISTING STOCKS.—The Administrator may permit the continued use, the continued distribution or sale, or both, of existing stocks of a pesticide whose registration is cancelled under any provision of this Act to such extent, under such conditions, during such periods, and for such uses as he may specify if he determines that such distribution, sale, or use is not inconsistent with the purposes of this Act and will not cause unreasonable adverse effects on the environment.

"(4) ADDITIONAL INFORMATION.—If at any time after the registration of a pesticide the registrant has additional information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator. For purposes of this paragraph, the term 'information' includes factual information and expert opinion regarding risks or benefits.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 3(c)(6).—Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended by striking out the period at the end and inserting in lieu thereof the following:

"except as otherwise provided in this paragraph. A request for a hearing under section 6 shall be made within 30 days of the receipt of such notification. The Administrator may issue regulations governing the right to a hearing under section 6 with regard to the denial of any application for the registration of a product containing an ingredient that was cancelled under section 6. Under such regulations, due weight shall be given to the desirability of finality of prior proceedings and determinations and the extent that the applicant had an opportunity to participate in earlier proceedings. Section 6(g)(2) applies with respect to the publication of a notice of a denial of a registration.".

(2) SECTION 6(a)(2).—Section 6(a) (7 U.S.C. 136d(a)) is amended—

(A) by striking out paragraph (2), and

(B) by striking out "(1) PROCEDURE.—", by striking out ": Provided" and all that follows in the first sentence and inserting in lieu thereof a period, and inserting the matter in paragraph (1) after the subsection heading so that it is flush with the full left-hand margin of the section.

TITLE VIII—FALSE OR INVALID DATA

SEC. 801. CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.

Subsection (h) of section 6 (7 U.S.C. 136d) (as redesignated by section 704 of this Act) is redesignated as subsection (i) and the following new subsection is inserted after subsection (g):

"(h) CANCELLATION OF REGISTRATION BASED ON FALSE OR INVALID DATA.—

"(1) NOTICE.—The Administrator shall immediately issue an order of suspension and a notice of intent to cancel the registration of a pesticide if—

"(A) before the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator has previously determined in the Industrial Biotest validation process conducted by the Administrator that data submitted by a registrant to the Administrator in support of such registration were invalid;

"(B) the data referred to in subparagraph (A)—

"(i) have not been replaced on the effective date of such Act; or

"(ii) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

"(C) such data are material to the registration.

"(2) Invalid data.—If, after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator determines that invalid data have been submitted by a registrant to the Administrator in support of a registration of a pesticide, the Administrator may—

"(A) require the registrant to submit valid replacement studies or data on an expedited schedule and to submit interim progress reports; or

"(B) issue a notice of intent to cancel such registration, if the Administrator determines that such action would be in the public interest, taking into account the scope of the invalid data and the need to use the data to determine whether the pesticide may cause unreasonable adverse effects on the environment.

"(3) False data.—If a registrant willfully submits material data known to be false in support of the

registration of a pesticide, the Administrator shall immediately issue a notice of intent to suspend or cancel such registration.

"(4) HEARING.—

"(A) Any suspension or cancellation under this subsection shall become final and effective at the end of the 30-day period beginning on receipt by the registrant of a notice issued under this section unless during such period a request for a hearing is made by a person adversely affected.

"(B) A hearing under this paragraph shall be conducted in accordance with subsection (c) or (d), as appropriate.

"(C) In the case of a hearing held with respect to action proposed to be taken under paragraph (1), the only matters for resolution shall be whether—.

"(i) in response to a notice of the Administrator issued under section 3(c)(2)(B) or other formal notice, data previously determined by the Administrator to be invalid—

"(I) have not been replaced on the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986; or

"(II) are in the process of being replaced on the effective date of such Act but have not been submitted to the Administrator by April 1, 1988; and

"(ii) the data are material to the registration.

"(D) In the case of a hearing held with respect to action proposed to be taken under paragraph (2), the only matters for resolution shall be whether data are invalid, material, and necessary to adequately determine whether a pesticide may cause unreasonable adverse effects on the environment.

"(E) In the case of a hearing held with respect to action proposed to be taken under paragraph (3), the only matters for resolution shall be whether a registrant willfully submitted material data known to be false.

"(F) A decision after completion of a hearing conducted under this paragraph shall be final.

"(G) Notwithstanding any other provision of this Act, a hearing shall be held, and a determination made, under this subsection within 75 days after the receipt of a request for such hearing.".

SEC. 802. RECORDS.

(a) SECTION 8.—Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—The Administrator may by regulation require any producer, exporter, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or commercial applicator, or any person who distributes or sells any pesticide—

"(1) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such record to the Administrator upon written request.

The Administrator may not require any person who distributes or sells at retail a pesticide that is not subject to a restricted use classification under section 3 to prepare, maintain, or furnish any record under this subsection with respect to such pesticide.

"(b) LIMITATIONS.—The Administrator may not, under the authority of subsection (a), require any person to maintain records of—

"(1) financial data, sales data, or pricing data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data (other than data relating to registered pesticides, data relating to any pesticides for which an application for registration or for an experimental use permit has been filed, or data relating to testing at a pesticide testing facility).".

(b) Definition.—Section 2 (7 U.S C. 136) (as amended by section 302(c)) is amended by adding at the end the following:

"(hh) Pesticide Testing Facility.—The term 'pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) on its own behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing it). The term does not include any person solely on account of such person's participation as a cooperator in field testing of a pesticide in compliance with an experimental use permit under section 5.".

TITLE IX—INSPECTIONS

SEC. 901. INSPECTIONS.

(a) SECTION 9(a).—Section 9(a) (7 U.S.C. 136g(a)) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—Officers or employees of the United States or of any State, duly designated by the Administrator, are authorized at reasonable times, as provided by this section—

"(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, in order to inspect and obtain samples of any pesticide, active ingredient, or device being distributed or sold at such place or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(2) to enter any place where there are located any records required by or under this Act or any place reported pursuant to section 8(a) as a location where such records are maintained, in order to inspect and obtain copies of such records;

"(3) to enter any pesticide testing facility, in order to inspect the facility and the testing being conducted at the facility and to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

"(4) to enter any place where such officer or employee has probable cause to believe that the Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, in order to inspect such place to obtain evidence of such violation.".

(b) Section 9(b).—Section 9(b) (7 U.S.C. 136g(b)) is amended to read as follows:

"(b) Warrants.—Officers or employees of the United States or of any State, duly designated by the Administrator, are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purposes of this section;

"(2) inspection and copying of all records required under this Act; and

"(3) seizure of any pesticide or device that is in violation of this Act.".

(c) Procedure and Coordination.—Section 9 is further amended by adding at the end the following:

"(d) Procedure.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the inspection and whether a violation of the law is suspected.

Each inspection shall be commenced and completed with reasonable promptness. If the person conducting the inspection obtains any samples of pesticides or devices, before leaving the premises such person shall give to the person in charge of the premises a receipt describing the samples and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.

"(e) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.".

TITLE X—EXPORT OF PESTICIDES

SEC. 1001. DEFINITION OF MISBRANDED.

Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting after the close quotation marks "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export that is substantially similar in composition and use pattern to a pesticide registered under section 3, the label is not written in an appropriate language as required by section 17(a)(4)(A) or does not contain the same health, safety, and hazard precautions as a pesticide registered under section 3, unless such precautions on the label are in conflict with the law of the importing country.".

SEC. 1002. DEFINITION OF IMPORTING COUNTRY.

Section 2 (7 U.S.C. 136) (as amended by section 802(b) of this Act) is amended by adding at the end thereof the following new subsection:

"(ii) IMPORTING COUNTRY.—The term 'importing country' means the first country to which a pesticide, device, or active ingredient, subject to the notification requirement of section 17(a), is exported from the United States.".

SEC. 1003. PESTICIDES AND DEVICES INTENDED FOR EXPORT.

(a) IN GENERAL.—Subsection (a) of section 17 (7 U.S.C. 136o(a)) is amended to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—

"(1) VIOLATIONS.—Notwithstanding any other provision of this Act, no pesticide or device or active

ingredient used in producing a pesticide intended solely for export to any foreign country shall be considered in violation of this Act when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to section 2(p), subparagraphs (A), (C), (D), (E), (G), (H), and (I) of section 2(q)(1), subparagraphs (A), (B), (C)(i), (C)(iii), and (D) of section 2(q)(2), sections 7 and 8, and paragraphs (2), (3), (4), (5), and (6) of section 17(a).

"(2) EXPORTS.—

"(A) This paragraph applies to a pesticide, device, or active ingredient—

"(i) for which a restricted use classification has become effective under section 3;

"(ii) for which a cancellation or suspension has become effective under section 6;

"(iii) the registration of which has been voluntarily withdrawn by the registrant, if such withdrawal was associated with concern over potential adverse public health or environmental effects; or

"(iv) that is not registered under section 3 for any use.

"(B) No pesticide, device, or active ingredient described in subparagraph (A) may be exported to any foreign country by any person unless, at least 30 days before the first shipment each year of such pesticides to such country, such person has—

"(i) notified, pursuant to paragraph (3), the person importing the pesticide and the appropriate government regulatory office in the importing country;

"(ii) received written evidence that the notification was delivered to the appropriate government regulatory office; and

"(iii) submitted a copy of the notification in English and evidence of delivery to the Administrator.

"(C) Documents referred to in subparagraph (B) shall be made available to the public, on request.

"(3) NOTIFICATION.—The notification required pursuant to paragraph (2) shall be made in an appropriate language and shall contain the following information—

"(A) the name of the pesticide and the common and chemical names of the active ingredient;

"(B) the name and address of the person exporting the pesticide;

"(C) the name and address of the person importing the pesticide;

"(D) the name and address of the appropriate government regulatory office in the importing country;

"(E) a statement of the reasons why the pesticide was cancelled, suspended, voluntarily withdrawn, is not registered in the United States, or has been classified for restricted use, and the list of restrictions; and

"(F) the name and address of the office of the United States Environmental Protection Agency that, on request by the importer or official of the importing country, can provide additional information on the pesticide.

"(4) LABELS.—

"(A) The label of pesticides intended for export from the United States shall be written in an appropriate language.

"(B) Except as provided in section 2(q)(1)(H), such label may not refer to compliance with the laws of the United States unless the label also contains or is accompanied by a description of the relevant requirements of such laws.".

(b) Effective Dates.—

(1) Section 17(a)(2) and (3) of the Federal Insecticide, Rodenticide, and Fungicide Act (as amended by subsection (a) of this section) shall become effective 90 days after the date of enactment of this Act.

(2) Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a list of the names, addresses, and international telecommunications codes of appropriate regulatory offices required to receive notices under section 17(a)(2)(B) of the Federal Insecticide, Rodenticide, and Fungicide Act.

(3) Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Administrator shall revise the list required under paragraph (2).

(4) Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register preliminary guidelines regarding—

(A) the form of the notification required under section 17(a)(2) of the Federal Insecticide, Rodenticide, and Fungicide Act;

(B) translation of the notification and labels required under such section into the appropriate language;

(C) retention of shipping documents and other pertinent records by exporters under such section; and

(D) procedures for public access to documents submitted by exporters under such section.

(5) Not later than 1 year after the date of enactment of this Act, the Administrator shall issue such regulations as are necessary to carry out paragraphs (2) and (3) of section 17(a) of the Federal Insecticide, Rodenticide, and Fungicide Act and this subsection.

SEC. 1004. CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.

Subsection (b) of section 17 (7 U.S.C. 136o(b)) is amended to read as follows:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENT.—

"(1) Issuance.—The Administrator shall transmit through the Secretary of State a notice, at such time and annually thereafter, to the appropriate governmental regulatory office of other countries and to appropriate international agencies whenever—

"(A) a registration, or a cancellation or suspension of the registration, of a pesticide becomes effective, or ceases to be effective; or

"(B) a pesticide is classified for restricted use.

"(2) Contents.—A notice under paragraph (1) shall include—

"(A) the reasons for the regulatory action taken;

"(B) for canceled or suspended registrations, information concerning other pesticides that are registered under section 3 and that could be used in lieu of such pesticide; and

"(C) the name and address of the office of the United States Environmental Protection Agency that, on request, can provide additional information on the pesticide.".

SEC. 1005. COOPERATION IN INTERNATIONAL EFFORTS.

Subsection (d) of section 17 (7 U.S.C. 136o(d)) is amended to read as follows:

"(d) Cooperation in International Efforts.—The Administrator shall—

"(1) in cooperation with the Secretary of State, other appropriate Federal agencies, and non-governmental and international organizations, actively participate in international efforts to develop improved pesticide research and regulatory programs;

"(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs;

"(3) within 1 year of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, and every 3 years thereafter, conduct and publish a survey of all countries that import pesticides from United States exporters or from which the United States imports agricultural commodities, to—

"(A) ascertain what procedures are in place in each country regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides; and

"(B) control residues on foods in order to meet tolerances established under United States law; and

"(4) report to Congress annually on the activities conducted to comply with this subsection and the results thereof.".

SEC. 1006. TOLERANCES AND REGULATIONS FOR AGRICULTURAL COMMODITIES.

The Act (as amended by section 601) is amended by adding at the end the following:

"SEC. 32. TOLERANCES AND FOOD ADDITIVE REGULATIONS FOR AGRICULTURAL COMMODITIES.

"(a) CANCELLATION.—If the registration of each pesticide containing a specific active or inert ingredient registered for a particular food or feed use—

"(1) has been cancelled by the Administrator,

"(2) has voluntarily been cancelled, or

"(3) has voluntarily been withdrawn,

due in whole or in part to risks to humans, not later than 60 days after the effective date of such cancellation or after receipt of knowledge of such withdrawal, the Administrator shall revoke any associated tolerance or exemption from a tolerance for such ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) and any associated food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348). The effective date of such revocation may be delayed in order to permit distribution in commerce of food *that bears residues of the active or inert ingredient as the result of—*

"(1) use of the cancelled pesticide before the date of its cancellation,

"(2) use of existing stocks of such pesticide as authorized under the order cancelling the registration of the pesticide, or

"(3) unavoidable residual environmental contamination.

"(b) SUSPENSION.—If the Administrator has suspended the registration of a pesticide containing a specific active or inert ingredient due in whole or in part to risks to humans, not later than 60 days after the effective date of such suspension, the Administrator shall suspend any associated tolerance or exemption from a tolerance for such ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) and any associated food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348). The effective date of such suspension may be delayed in order to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of—

"(1) use of the suspended pesticide before the date of its suspension,

"(2) use of existing stocks of such pesticide as authorized under the order suspending the registration of the pesticide, or

"(3) unavoidable residual environmental contamination.

In suspending a tolerance, an exemption from a tolerance, or a food additive regulation, the procedures required under section 553 of title 5, United States Code, shall be used. The suspension of a tolerance, an exemption from a tolerance, or a food additive regulation for a pesticide shall be effective as long as the registration of the pesticide to which the tolerance, exemption, or regulation is applicable is suspended. If the registration of the pesticide ceases to be suspended and is not cancelled, the Administrator shall suspend any such suspension.

"(c) Reassessment.—At the time the Administrator makes a determination under section 3A(h)(2)(A) regarding an active ingredient or a determination under section 3A(h)(2)(C) regarding an inert ingredient, any tolerance or exemption from a tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for such ingredient and any food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348) shall be reassessed and such tolerance, ex-

emption, or regulation shall be established, amended, or revoked as necessary.

"(d) CONSTRUCTION.—Nothing in this section limits or restricts other authority to establish, amend, or revoke a tolerance or exemption from a tolerance for an active or inert ingredient established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) or any food additive regulation for such ingredient established under section 409 of such Act (21 U.S.C. 348).".

TITLE XI—LIABILITY

SEC. 1101. LIABILITY.

Section 12 (7 U.S.C. 136j) is amended by adding at the end the following:

"(c) PESTICIDE USE.—

"(1) An agricultural producer shall not be liable in any action brought after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 under any Federal statute for damages caused by pesticide use unless the producer has acted negligently. Proof that an agricultural producer applied a pesticide in accordance with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently.

"(2) An agricultural producer shall not be held liable in an action brought under section 14 for civil

penalties for a violation of subsection (a)(2)(G) of this section unless the producer applied the pesticide in a manner inconsistent with its labeling. Proof that a pesticide was applied in a manner consistent with its label instructions shall create a rebuttable presumption that the agricultural producer did not violate such subsection.

"(3) As used in this subsection, the term 'agricultural producer' means a non-governmental producer of agricultural commodities who (A) uses or supervises the use of any pesticide for the production of such commodities on property owned or rented by him or his employer, or (B) without compensation other than the trading of personal services, assists another agricultural producer with the application of pesticides on such producer's land.".

TITLE XII—CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

SEC. 1201. CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS.

(a) DEFINITIONS.—Section 2(e) (7 U.S.C. 136(d)) is amended to read as follows:

"(e) APPLICATOR.—

"(1) COMMERCIAL APPLICATOR.—The term 'commercial applicator' means an applicator (whether or not the applicator is a private applicator with respect to some uses) who, in the ordinary course of business or work, uses or supervises the use of any restricted use pesticide, except antimicrobial products, for any purpose or on any property other than as described in paragraph (2) of this subsection. A commercial applicator shall either be certified pursuant to section 4(d) or be registered as a noncertified commercial applicator pursuant to section 4(e). Institutional, industrial, and governmental employees who apply restricted use pesticides as part of their job responsibilities are included in the term. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act.

"(2) PRIVATE APPLICATOR.—The term 'private applicator' means an applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his em-

ployer or, if applied without compensation (other than trading of personal services between producers of agricultural commodities), on the property of another person. Any private applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests and who does not deliver any unapplied pesticide to any other person is not deemed to be a seller or distributor of pesticides under this Act.

"(3) CERTIFIED APPLICATOR.—The term 'certified applicator' means a commercial or private applicator who is certified under section 4.

"(4) NONCERTIFIED COMMERCIAL APPLICATOR.—The term 'noncertified commercial applicator' means a person who undergoes a training program and registers with a State agency, designated under section 4(a)(2)(A), consistent with the provisions of section 4(e) and who is acting under the direct supervision and the instructions and control of a certified commercial applicator who is available if and when needed, even though such certified commercial applicator is not physically present at the time and place the pesticide is applied.

"(5) NONCERTIFIED PRIVATE APPLICATOR.—The term 'noncertified private applicator' means a person who has undergone training prescribed by section 4(f) and is acting under the direct supervision and instructions and control of a certified private applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

"(6) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.".

(b) SECTION 4.—Section 4 (7 U.S.C. 136b) is amended—

(1) in subsection (a)(2)(B), by inserting after "legal authority" the following: ", including requirements for State enforcement personnel to be certified in the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility,"; and

(2) by adding at the end the following:

"(d) COMMERCIAL APPLICATOR CERTIFICATION.—Notwithstanding the provisions of subsection (a), in order to operate as a certified commercial applicator a person shall, as a minimum—

"(1) within 12 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, undergo training (A) prescribed and administered by the State agency designated under subsection (a)(2)(A), including training that uses updated national core material approved by the Administrator on the use of appropriate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health, and the environment, and (B) conducted by trainers whose competency requirements and range of expertise shall be prescribed by such State agency;

"(2) have field, institutional, or industrial plant experience in pesticide use and application, with the specific category of use and related length of experience commensurate with potential risks and exposure to the

applicator and the environment set by such State agency; and

"(3) pass (with not less than 70 percent correct) an exam prescribed by such State agency.

"(e) NONCERTIFIED COMMERCIAL APPLICATOR TRAINING AND REGISTRATION.—In order to operate as a noncertified commercial applicator a person shall—

"(1) undergo basic training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1) and conducted by trainers whose competency requirements and range of expertise shall be prescribed by the such State agency; and

"(2) register with such State agency by providing to the State agency a signed statement from the trainer and the applicator stating that the prescribed minimum training has been provided by the trainer and received by the applicator.

"(f) NONCERTIFIED PRIVATE APPLICATOR TRAINING.—In order to operate as a noncertified private applicator—

"(1) a person shall undergo basic training (A) based on materials developed by the State agency designated under subsection (a)(2)(A) on the use of appro-

priate application and safety procedures, clothing, and protective equipment, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, and the requirements of appropriate laws, regulations, and labeling, including hazards posed by pesticides to workers, the public health and the environment, and (B) given by a certified private applicator or trainer whose competency requirements and range of expertise shall be prescribed by any such State agency; and

"(2) upon request, the employer of a noncertified private applicator shall verify by a signed statement from the trainer and the applicator to the delegate State lead pesticide regulatory agency that the training has been given and received.

"(g) CERTIFIED PRIVATE APPLICATOR TRAINING.—Notwithstanding the provisions of subsection (a), in order to operate as a certified private applicator, a person shall, at a minimum, undergo training prescribed and administered by the State agency designated under subsection (a)(2)(A), including training in the updated national core material referred to in subsection (d)(1) and conducted by trainers whose competency requirement and range of expertise are prescribed by such State agency and registered with such State agency as required by subsection (e)(2).

"(h) RECERTIFICATION AND REREGISTRATION.—All certified applicators and noncertified commercial applicators shall undergo, at least every 4 years, refresher training. The refresher training shall be prescribed by the State agency designated under subsection (a)(2)(A), including training in the updated national core materials referred to in subsection (d)(1) and the relevant requirements of this section. At the end of that period, the applicator shall be recertified or reregistered after complying with the relevant competency requirements established in this section.

"(i) UNIFORM TRAINING.—The Administrator shall establish a uniform nationwide course of training that meets the requirements of this section for applicators whose applications will be performed in more than one State. The State agencies designated under subsection (a)(2)(A) of a State, or the Administrator if the State fails to agree on such a program, shall certify or register such applicators.

"(j) MINIMUM STANDARDS FOR TRAINING PROGRAMS.—The Administrator shall establish minimum standards for the training programs and minimum competency standards for trainers referred to in subsections (d), (e), (f), and (g). Training programs prescribed and administered by any State pursuant to such subsections shall comply with the minimum standards established by the Administrator and the requirements of this section within 2 years after the date of

the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986. If a State's training program fails to meet minimum standards established by the Administrator, or a State refuses to prescribe and administer such a program, the Administrator shall exercise authority to prescribe and administer the training program referred to in subsections (d), (e), (f), and (g) in such State but only pursuant to the procedures set out in section 27(b).

"(k) PRIVATE TRAINING PROGRAMS.—A State agency designated under subsection (a)(2)(A) shall approve any privately administered training program that it determines meets the requirements established under this section.

"(l) REFRESHER TRAINING.—A commercial or private applicator certified to use or supervise the use of a restricted use pesticide before a State training program is in effect that complies with subsection (j), shall undergo refresher training and recertification pursuant to subsection (h) not more than 4 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or when required to be recertified by the State, whichever comes first.".

(c) SECTION 26.—Section 26 is amended by adding at the end the following:

"(d) FEDERAL PERSONNEL.—Federal field personnel responsible for enforcement shall be certified in the State for

the restricted and nonrestricted use pesticide application categories for which they are assigned enforcement responsibility.".

(d) PESTICIDE DEALER.—Section 2 (as amended by section 1002) is amended by adding at the end the following:

"(jj) PESTICIDE DEALER.—The term 'pesticide dealer' means any person who, in the ordinary course of business, sells pesticides, but shall not include retail vendors who solely sell antimicrobials and household nonrestricted use pesticides.".

(e) STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.—Section 11 (7 U.S.C. 136i) is amended by adding at the end the following:

"(c) RECORDS OF COMMERCIAL APPLICATORS.—The Administrator, or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require commercial applicators to maintain records of pesticide applications, including the identity and amount of the pesticides applied, and the date and location of such applications. A commercial applicator shall maintain the records required under this subsection for 2 years.

"(d) RECORDS OF PESTICIDE DEALERS.—The Administrator or the State agency, whichever has primary enforcement responsibility pursuant to section 26, shall require pesticide dealers to maintain records of restricted use pesti-

cide sales and those nonrestricted pesticides designated by the Administrator because they may cause unreasonable adverse effects on health or the environment, except sales of antimicrobials. Such records shall include the identity of the pesticide, identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of distribution or sale. A pesticide dealer shall maintain the records required under this subsection for 3 years.

"(e) INSPECTION OF RECORDS.—For purposes of enforcing this Act, upon request of the Administrator or the State agency, whichever has primary enforcement responsibility pursuant to section 26, a commercial applicator and a pesticide dealer shall, upon presentation of proper credentials and a written statement of reasons, furnish or permit the Administrator or the State agency at all reasonable times to have access to, and to copy records maintained pursuant to subsections (c) and (d) of this section.

"(f) ACCESS TO RECORDS.—The records required to be kept under subsections (c) and (d) shall be accessible within 30 days of the request. When necessary to protect the public health and in medical emergencies, such records shall be provided immediately, but no later than 24 hours after the request is made. Employees of dealers or commercial applicators shall have access to the records that directly relate to their employment duties. An employer shall know or have

access to the brand name and common or chemical name of the pesticide and safety, first aid, and antidote information listed on the label or labeling of any pesticide used and shall be responsible for promptly making such information available, upon request, to an employee exposed to a pesticide and to treating medical personnel. Customers shall have access to the information records that directly relate to pesticides that they have purchased or pesticide applications for which they have contracted. State enforcement agencies shall obtain and make available, upon reasonable requests, records relating to any pesticide application or sale to any person who may be directly and adversely affected by any such pesticide application or sale.".

(f) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended by adding at the end the following:

"(f) WORKER HEALTH AND SAFETY PROGRAM.—

"(1) The Administrator shall establish and maintain an occupational health program and a separate administrative unit within the Office of Pesticide Programs that shall be responsible for the protection of workers who mix, load, or apply pesticides or work in areas where pesticides are applied. Such unit shall develop and maintain expertise on working conditions and practices of workers exposed to pesticides, participate in the development of regulations, standards, and

registration data requirements relating to the health and safety of workers exposed to pesticides, and evaluate registration, reregistration, interim administrative review, and cancellation decisions with respect to effects of such actions on worker health and safety.

"(2) If appropriate and necessary, the Administrator shall issue regulations that require (A) the protection of employees who mix, load, or apply pesticides and employees who work in pesticide-treated areas, including the use of protective clothing and equipment; emergency medical care, and hygiene, and safe re-entry intervals; and (B) the training of each employee who mixes, loads, or applies a pesticide in worker, public health, and environmental hazards, in clothing and protective equipment, in common symptoms of pesticide poisoning, in the location of emergency medical treatment, and in applicable laws, regulations, and labeling requirements.".

(g) SECTION 12.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by striking out "or" at the end of paragraph (2)(O), by striking out the period at the end of paragraph (2)(P) and inserting in lieu thereof a semicolon, and by adding after paragraph (2)(P) the following:

"(Q) to obtain and to use records acquired under section 11(f) in furtherance of a commercial purpose;

"(R) to violate the regulations issued by the Administrator under section 25(f);".

TITLE XIII—STATE AUTHORITY

SEC. 1301. STATE REGISTRATIONS.

Section 24(c) (7 U.S.C. 136v(c)) is amended—

(1) by striking out in paragraph (1) the period at the end and inserting in lieu thereof a comma and the following: "except that such a registration shall expire and be of no further effect, without further action by the Administrator—

"(A) at the end of the period, if any, provided as the duration of the registration by the State which approved it, or

"(B) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State that issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect.", and

(2) by adding at the end of paragraph (2) the following: "The Administrator shall establish criteria that define the conditions under which a special local needs

registration may be disapproved, taking into account geographic patterns of use.".

TITLE XIV—DEFINITIONS

SEC. 1401. DEFINITIONS.

(a) AMENDMENTS.—

(1) SECTION 2(ee).—Section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) by inserting before the comma at the end of clause (1) "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency", and

(B) in clause (3) by inserting after "labeling," the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling".

(2) NEW DEFINITION.—Section 2 (as amended by section 1202(d)) is further amended by adding at the end the following:

"(kk) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticide products or use dilutions thereof by any applicator who provides a service

of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a) (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act.".

(2) Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in subsection (a)(1) by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "distribute or sell to any person—",

(B) in subsection (a)(2)(F) by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make".

TITLE XV—INFORMATION REQUESTED

SEC. 1501. INFORMATION REQUESTED.

Section 7 (7 U.S.C. 136e) (as amended by section 501) is amended by adding at the end the following:

"(f) INFORMATION REQUESTED.—Consistent with section 3507(a)(1) of title 44, United States Code, the Administrator shall make efforts to catalogue and retrieve data in such manner as to eliminate or reduce burdensome requests to registrants for submission of information, particularly those requests that require the submission of duplicate confidential data.".

TITLE XVI—STATE COOPERATION, AID, AND TRAINING

SEC. 1601. COOPERATIVE AGREEMENTS.

Section 23(a) (7 U.S.C. 136u) is amended to read as follows:

"(a) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements with States and Indian Tribes for the following:

"(1) To delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian Tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants.

"(2) To provide an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conduct-

ing training programs for certification of applicators. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator. There are authorized to be appropriated such sums as may be necessary for cooperative agreements to carry out this paragraph.

"(3) To provide an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator. There are authorized to be appropriated such sums as may be necessary for cooperative agreements to carry out this paragraph.".

TITLE XVII—SCIENTIFIC ADVISORY PANEL

SEC. 1701. TERM.

Section 25(d) (7 U.S.C. 136w) is amended—

(1) by striking out "7 members" and inserting in lieu thereof "9 members", and

(2) by striking out the sentence beginning "The advisory panel established".

TITLE XVIII—STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1801. AUTHORITY FOR EPA ACTION.

The second sentence of section 27(a) (7 U.S.C. 136w–2) is amended to read as follows: "If a State—

"(1) does not promptly initiate appropriate investigative action after receiving such referral, or

"(2) does not initiate appropriate enforcement action within 90 days of receipt of such referral,

the Administrator may act upon such complaint or information in accordance with this Act.".

TITLE XIX—UNLAWFUL ACTS

SEC. 1901. UNLAWFUL ACTS.

(a) SECTION 12(a).—Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 1202) is amended—

(1) by amending paragraph (1)(A) to read as follows:

"(A) any pesticide product that is not registered under section 3 or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;";

(2) by amending paragraph (2)(B) to read as follows:

"(B) to refuse to (i) prepare, maintain, or submit any records required by or under this Act, (ii) submit any reports required by or under this Act, or (iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(3) by amending paragraph (2)(J) to read as follows:

"(J) to violate any suspension order issued under section 3(c)(2)(B), 3A, or 6;";

(4) by amending paragraph (2)(K) to read as follows:

"(K) to violate any cancellation order issued under this Act;";

(5) in paragraph (2)(M) by striking out "section 8" and inserting in lieu thereof "this Act"; and

(6) by adding at the end the following:

"(S) to willfully falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed submitted to the Administrator, or

that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

"(T) to willfully submit to the Administrator data known to be false in support of a registration; or

"(U) to violate any regulation issued under section 3(a), 4(a), 10(e), 19(a), or 25(c)(3) of this Act.".

(b) ACTS OF OFFICERS, AGENTS, ETC.—

(1) Section 12 (7 U.S.C. 136j) (as amended by section 1101) is amended by adding at the end the following:

"(d) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.".

(2) Paragraph (4) of section 14(b) (7 U.S.C. 136l) is repealed.

TITLE XX—PENALTIES

SEC. 2001. PENALTIES.

(a) SECTION 14(a).—Section 14(a) (7 U.S.C. 136l(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) In general.—

"(A) Any registrant, applicant for a registration, or pesticide testing facility that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $25,000 for each offense. If a registrant, applicant for a registration, or pesticide testing facility violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $50,000 for such subsequent violation.

"(B) Any commercial applicator of restricted use pesticides or any other person not described in subparagraph (A) who distributes or sells pesticides or devices that violate any provision of this Act may be assessed a civil penalty by the Administrator of not more than $10,000 for each offense. If such person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $20,000 for such subsequent violation."

(2) by amending paragraph (2) to read as follows:

"(2) PRIVATE APPLICATOR.—Any private applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation and any other person not included in paragraph (1) that violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If such a person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for such subsequent violation. The Adminstrator may waive the requirement for a warning or citation for a first offense by a private applicator if the Administrator determines that the violation was intentional or caused significant harm to health or the environment.",

(3) by adding at the end of paragraph (3) the following: "If the person neither resides nor has its principal place of business in the United States, the Administrator may designate a site for the hearing in the United States that is reasonably convenient for the parties.", and

(4) in the first sentence of paragraph (4) by inserting "the economic benefit (if any) resulting from the violation," after "to continue in business,".

(b) SECTION 14(b).—

(1) Section 14(b)(1) (7 U.S.C. 136l(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or pesticide testing facility that knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than one year, or both.

"(B) Any commercial applicator of a restricted use pesticide or any other person not described in subparagraph (A) who distributes or sells pesticides or devices that knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than one year, or both.".

(2) Section 14(b)(2) is amended (A) by striking out "$1,000" and inserting in lieu thereof "$2,000", and (B) by striking out "30" and inserting in lieu thereof "60".

(c) SUBPOENAS.—Section 14(a) is amended by adding at the end the following:

"(6) SUBPOENAS.—The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance

and testimony of witnesses and subpoenas duces tecum and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.".

TITLE XXI—CONGRESSIONAL REVIEW

SEC. 2101. CONGRESSIONAL REVIEW.

Section 25(a)(4) (7 U.S.C. 136w(a)(4)) is amended to read as follows—

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

TITLE XXII—REVIEW OF REGULATIONS

SEC. 2201. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

"(e) REVIEW OF REGULATIONS.—

"(1) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 or any refusal of a petition to modify or rescind such a regulation shall be reviewable only as provided by this paragraph. Any person may obtain judicial review of such a regulation or refusal by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia. Any petition under this paragraph for review of a regulation shall be filed within 60 days from the date of promulgation of the regulation as determined by the Administrator in the Federal Register. Any petition under this paragraph for review of a refusal to modify or rescind a regulation shall be filed within 60 days after such refusal. The scope of review shall be as specified in section 706 of title 5, United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of the regulation.

"(2) Action of the Administrator with respect to which review could have been obtained under

paragraph (1) shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act or any appeal therefrom or in any proceeding under section 13, 14, or 16(c) or any appeal therefrom.".

TITLE XXIII—DELEGATION AND COOPERATION

SEC. 2301. DELEGATION AND COOPERATION.

Section 22 (7 U.S.C. 136t) is amended by adding at the end the following:

"(c) EFFECT ON CERTAIN OTHER LAWS.—In exercising any authority under this Act, the Administrator shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The Administrator and the Secretary of Labor shall coordinate their effort to regulate pesticide use in the work place so as to avoid duplicative and conflicting regulation.".

TITLE XXIV—INDEMNITIES

SEC. 2401. REPORT BY EPA.

Section 15 (7 U.S.C. 136m) is amended by adding at the end the following:

"(c) Report.—If the Administrator has taken an action that under subsection (a) requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate—

"(1) the action taken that requires the payment of indemnification,

"(2) the reasons for taking such action,

"(3) the estimated cost of the payment,

"(4) the effect such payment would have on the budget of the Administrator to implement this Act without a specific additional appropriation for the payment, and

"(5) a request for the appropriation of funds for such payment.".

TITLE XXV—RESPONSE TO PESTICIDE DETECTION IN GROUNDWATER

SEC. 2501. DEFINITION OF GROUNDWATER.

Section 2 (7 U.S.C. 136) (as amended by section 1401) is amended by adding at the end thereof the following new subsection:

"(ll) GROUNDWATER.—The term 'groundwater' means water below the land surface in a zone of saturation."

SEC. 2502. PROTECTION OF GROUNDWATER.

The Act (as amended by section 1001) is amended by inserting after section 32 the following new section:

"SEC. 33. PROTECTION OF GROUNDWATER.

"(a) NOTIFICATION.—

"(1) REQUIREMENT.—

"(A) When a registrant of a pesticide obtains confirmed information while conducting monitoring required by the Administrator, on his own initiative, or from another person that the pesticide has been—

"(i) detected in groundwater for the first time after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Amendments of 1986, or

"(ii) detected in groundwater equal to or greater than a concentration at or greater than the groundwater action level established under subsection (c),

the registrant shall notify the Administrator of such information within 15 working days of obtaining such information and shall make the notification required by subparagraph (B).

"(B) The registrant shall also notify the Administrator of further information on confirmed detection and nondetection of the pesticide in groundwater, including resampling information, as the Administrator may require, taking into account the requirement to make the findings described in subsection (d).

"(2) CONTENT OF NOTIFICATION.—A notification made under paragraph (1) shall contain confirmed information known to the registrant on the level of pesticide detection, the frequency of detection, the location (including depth) of the detection, the date of the detection, well construction if detected in a well, and quality assurance and control procedures employed in making the detection, including the specificity and limit of detection of the method used in making the detection.

"(b) INVESTIGATION AND MONITORING.—

"(1) INVESTIGATION.—Upon receiving notification under subsection (a) from any person of confirmed information on detection of a pesticide in groundwater, the Administrator shall review the nature and extent of the presence of the pesticide in groundwater to determine whether further action should be taken under this Act.

"(2) MONITORING.—If the Administrator determines that additional data on the presence of a pesticide in groundwater are required to maintain in effect an existing registration of the pesticide, the Administrator may, under section 3(c)(2)(B), require registrants of the pesticide to conduct groundwater monitoring. Monitoring shall be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator. The Administrator shall, in consultation with the Secretary of Agriculture, consider all relevant information in determining appropriate monitoring, including the magnitude and frequency of the detection, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction, rates of degradation, reliability and analytical accuracy of the detection, and whether the groundwater for which monitoring is required is a current or potential source for human consumption.

"(3) JUDICIAL REVIEW.—Monitoring requirements shall be subject to judicial review pursuant to section 16(a).

"(c) GROUNDWATER ACTION LEVELS.—

"(1) REQUIREMENT.—

"(A) GENERAL RULE.—After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall establish a groundwater action level that shall guide regulatory action under this section. In establishing the groundwater action level under clauses (ii) and (iii) of subparagraph (B), the Administrator shall consider the level of the pesticide in potable water at which no known or anticipated adverse effects on the health of persons occur, the need for an adequate margin of safety, and the validity, completeness, and adequacy of data about the pesticide.

"(B) GROUNDWATER ACTION LEVELS.—The groundwater action levels are as follows:

"(i) If the Administrator has promulgated a maximum contaminant level for a pesticide in drinking water supplied by public water systems under section 1412(b)(3) of the Public Health Service Act, the groundwater action level shall be the maximum contaminant level.

"(ii) If a maximum contaminant level has not been promulgated and the Administrator has calculated a health advisory level

for a pesticide in drinking water under section 1442 of the Public Health Service Act, the groundwater action level shall be the health advisory level until a maximum contaminant level has been promulgated.

"(iii) If a maximum contaminant level or health advisory level has not been established under title XIV of the Public Health Service Act or is not established under such title within 60 days of the Administrator receiving confirmed information that a pesticide has been detected in groundwater, not later than 90 days after receiving such confirmed information of a detection, the Administrator shall promulgate an interim groundwater action level by informal rulemaking. If all required chronic, oncogenicity, reproduction, or teratogenicity data are absent for the pesticide, the interim groundwater action level for the pesticide shall be at the lowest level of detection. If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent for the pesticide, the interim groundwater action level for the pesticide shall include an additional margin of

safety that takes into account the absence of such data. The interim groundwater action level shall remain effective until a maximum contaminant level or health advisory level for the pesticide is established under title XIV of the Public Health Service Act and implemented under clause (i) or (ii).

"(2) FINAL AGENCY ACTION.—The Administrator shall publish in the Federal Register all groundwater action levels, that, with respect to clause (ii) or (iii), shall constitute final agency action judicially reviewable pursuant to section 16.

"(d) FINDINGS.—

"(1) REQUIREMENT.—After receiving confirmed information that a pesticide has been detected in groundwater, the Administrator shall promptly issue findings whether—

"(A) there is a reasonable likelihood that the groundwater action level will be exceeded in groundwater at a current or potential point of human consumption, and

"(B) the presence of the pesticide in groundwater was a result of pesticide use in compliance with this Act.

"(2) PROCEDURES.—Findings under paragraph (1) shall be published in the Federal Register. In making the finding under paragraph (1)(A), the Administrator shall consult with the Secretary of Agriculture and appropriate Federal and State agencies in determining potential points of human consumption. The finding under paragraph (1)(B) shall not delay or preclude registration amendments under subsection (e).

"(e) REGISTRATION AMENDMENTS.—

"(1) REQUIREMENT.—

"(A) CURRENT POINTS OF HUMAN CONSUMPTION.—After making the finding under subsection (d)(1)(A), the Administrator shall, with respect to a current point of human consumption, promptly require amendments to the registration of the pesticide with respect to which the finding was made that are necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the groundwater action level involved in the finding to be exceeded at a current point of human consumption and shall notify registrants of such amendments. Registration amendments may include—

"(i) limitations on the purposes for which a pesticide may be used, considering

factors such as environmentally sensitive areas and conditions,

"(ii) limitations on the rate at which the pesticide is applied,

"(iii) limitations on the time or frequency of pesticide use,

"(iv) limitations on the method of pesticide use,

"(v) reporting or other requirements, including label changes or changes in classification,

"(vi) requirements for the training or certification of pesticide applicators or other persons using the pesticide, or

"(vii) any other requirement to ensure that the applicable groundwater action level will not be exceeded.

The registration amendments shall be directed to the same or similar uses of the pesticide, geographical and hydrogeological areas, and other conditions that led to the findings under subsection (d)(1)(A). In requiring such amendments, the Administrator shall consider the effect of any voluntary actions by registrants or other persons to prevent the action level from being exceeded.

"(B) POTENTIAL POINTS OF HUMAN CONSUMPTION.—After making the findings under subsection (d)(1)(A) with respect to a potential point of human consumption, the Administrator shall promptly require amendments to the registration that are necessary to ensure that use of the pesticide involved in the finding in accordance with the amended registration will not cause the groundwater action level to be exceeded at a potential point of human consumption and shall notify registrants of such amendments. In establishing such amendments, the Administrator shall—

"(i) meet the requirements of subparagraph (A),

"(ii) take into account when such potential points of human consumption will likely be used, and

"(iii) consider the views of the Secretary of Agriculture and other appropriate Federal and State agencies.

"(2) PROCEDURES.—Registration amendments shall be imposed in accordance with the procedures established by section 6(b).

"(f) USE PROHIBITION.—

"(1) REQUIREMENT.—After receiving confirmed information that a pesticide, as a result of use, has been detected above the groundwater action level at a current point of human consumption, the Administrator shall immediately notify the registrant and the Secretary of Agriculture and shall, within 30 days after providing such notice—

"(A) require registration amendments as described in subsection (e)(1)(A) if the registrant can demonstrate during such 30 days with reasonable certainty that such amendments will bring and retain concentrations of the pesticide at or below the groundwater action level at points of human consumption, or

"(B) prohibit use in the surface and subsurface area surrounding the point of human consumption through which the pesticide is reasonably likely to move toward and reach such point of human consumption and require monitoring at other similar locations under subsection (b)(2).

The Administrator shall publish the action in the Federal Register and take appropriate steps to inform all registrants, potentially affected persons, and interested members of the public. Such notice shall specify the factual findings and conclusions relied upon in support *of the decision. Persons adversely affected by any use prohibition required under subparagraph (B) shall have an opportunity, in accordance with paragraph (2), for an expedited hearing.*

"(2) HEARING.—If any person adversely affected by a use prohibition requests within 5 days after publication of the notice under paragraph (1) a hearing on the use prohibition, the Administrator shall hold a hearing in accordance with the procedures in section 6(c). If a hearing is requested, it shall be completed and the Administrator shall issue within 90 days a final order continuing or discontinuing the use prohibition. The use prohibition shall be effective until the Administrator enters a final order after the hearing. In the hearing the Administrator shall have the burden of proving with reasonable certainty that—

"(A) the groundwater action level has been exceeded in groundwater at a current point of human consumption, and

"(B) the use prohibition is directed to the use at the location or locations described in paragraph (1)(B) where the groundwater action level was exceeded.

In the hearing the registrant shall have the burden of proving with reasonable certainty that registration *amendments will bring and retain concentrations of the pesticide at or below the action level at points of human consumption.*

"(3) TERMINATION OF USE PROHIBITION.—Upon petition to the Administrator by a registrant or other interested person, a use prohibition shall be discontinued if the petitioner establishes with reasonable certainty that concentrations of the pesticide are at or below the groundwater action level in groundwater at points of human consumption and will remain at or below such level.

"(4) JUDICIAL REVIEW.—The Administrator's action or failure to act under this subsection shall be subject to judicial review under section 16(a).

"(g) PUBLIC INTERIM ADMINISTRATIVE REVIEW.—Immediately upon receiving confirmed information that a pesticide has been detected above the groundwater action level in groundwater not at current or potential points of human consumption, the Administrator shall initiate a public interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(h) OTHER AUTHORITY.—Nothing in this section prohibits or restricts any other authority of the Administrator under this Act.".

TITLE XXVI—AUTHORIZATION FOR APPROPRIATIONS

SEC. 2601. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1986, section 34 (7 U.S.C. 136y) (as redesignated by section 601(b)) is amended to read as follows:

"SEC. 34. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than sections 23 and 31) $__________ for fiscal year 1987, $__________ for fiscal year 1988, $__________ for fiscal year 1989, and $__________ for fiscal year 1990.".

TITLE XXVII—MISCELLANEOUS

SEC. 2701. IR4 PROGRAM.

Section 2(c) of the Act of August 4, 1965 (7 U.S.C. 450i(c)) is amended by inserting before the first sentence after paragraph (2) the following: "The Secretary in making grants under paragraph (2)(B) shall provide support for the interregional project number 4 program (commonly referred to as the 'IR4 program').".

SEC. 2702. PESTICIDE RISK RATING.

(a) STUDY.—Subject to subsection (b), the Administrator shall contract with the Board of Agriculture of the National Academy of Sciences to conduct a study to determine the feasibility of establishing an environmental risk rating

for pesticides used in the production of agricultural commodities. Such risk rating shall include methods of application, chronic and acute toxicity, and anticipated losses to and persistence in the environment. In conducting the study, the National Academy of Sciences shall seek input from recognized public and private sector scientists and provide opportunity for public comment on the preliminary findings relating to the development of a risk rating. The National Academy of Sciences shall report the findings of such study to the Administrator and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate within 18 months of the date of the enactment of this Act.

(b) LIMITATION.—The study required by subsection (a) shall be conducted at such cost as the Administrator, in consultation with the National Academy of Sciences, may establish.

(c) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 2703. STUDY.

The Administrator shall study and report to Congress within one year of the date of the enactment of this Act on the *pesticide volume, use sites, and target insects for non-agricultural pesticides.*

SEC. 2704. DEFINITION.

Section 2(bb) (7 U.S.C. 136(bb)) is amended by inserting after "man" the following: ", including unborn human beings from the moment of conception,".

TITLE XXVIII—CLARIFYING AND TECHNICAL AMENDMENTS

SEC. 2801. CLARIFYING AMENDMENTS.

(a) SECTION 3.—

(1) Section 3(a) (7 U.S.C. 136a(a)) (as amended by section 1401(b)) is amended by adding at the end the following: "To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.".

(2) Section 3(d) (7 U.S.C. 136a(d)) is amended—

(A) in paragraph (1)(A) by striking out "on the initial classification"; and

(B) in paragraph (1)(C), by striking out the colon preceding clause (i) and inserting in lieu

thereof a period, by striking out clause (i), by striking out "(ii)", by striking out the last sentence, and by running in the material after "restricted use." so that the margin is the same as the margin of paragraph (1)(C).

(3) Section 3(c)(7)(A) (7 U.S.C. 136a(c)(7)(A)) is amended—

(A) by striking out "submit" each place it occurs and inserting in lieu thereof "submit or cite",

(B) by striking out "submission" and inserting in lieu thereof "submission or citation", and

(C) by striking out "submitted" and inserting in lieu thereof "submitted or cited".

(b) SECTION 4.—The last sentence of section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended by inserting "by regulation" after "may".

(c) SECTION 7.—Section 7(c) (7 U.S.C. 136e(c)) is amended—

(1) by striking out "shall inform the Administrator" and inserting in lieu thereof "shall, in accordance with regulations promulgated by the Administrator, submit to the Administrator a report",

(2) by striking out "of the" and inserting in lieu thereof "describing", and

(3) by striking out "information" and inserting in lieu thereof "report".

(d) S*ECTION* *25.—Section 25(c) (7 U.S.C. 136w(c)) is amended—*

(1) by inserting "or by regulation" after "hearing", and

(2) in paragraph (5), by striking out "prescribe regulations requiring" and inserting in lieu thereof "require".

SEC. 2802. TECHNICAL AMENDMENTS.

(a) S*ECTION* *2.—Section 2 (7 U.S.C. 136) is amended—*

(1) by striking out in subsection (u) ": Provided, That" and inserting in lieu thereof ", except that", by striking out "(1)(a)", by striking out "or (b)", and by striking out "(2) that" and inserting in lieu thereof "that", and

(2) by striking out in subsection (ee) ": Provided, That the term" and inserting in lieu thereof ", except that the term", by striking out "or" before clause (4), by striking out ": Provided further, That the term also shall not include" and inserting in lieu thereof ", (5)", by striking out "or any use" and inserting in lieu thereof "or (6) any use", and by striking out ": And

provided further, That after" and inserting in lieu thereof a period and "After".

(b) SECTION *3.—Section 3 (7 U.S.C. 136a) is amended—*

(1) by striking out ": Provided, That such" in subsection (c)(1)(D)(i) and inserting in lieu thereof a period and "Such",

(2) by striking out ": Provided, That the" in subsection (c)(2)(B)(iv) and inserting in lieu thereof a period and "The" and by striking out "subsection (c)(1)" in subsection (c)(2)(B)(v) and inserting in lieu thereof "paragraph (1)",

(3) by striking out "subsection (c)(5) of this section" in subsection (c)(7) each place it occurs and inserting in lieu thereof "paragraph (5)" and by striking out ": Provided, That if" in subsection (c)(7)(A) and inserting in lieu thereof a period and "If",

(4) by striking out ", provided that if" in subsection (d)(1)(A) and inserting in lieu thereof a period and "If" and by striking out ": Provided, however, That the" in such subsection and inserting in lieu thereof a period and "The", and

(5) by striking out ": Provided, That as" in subsection (f)(2) and inserting in lieu thereof a period and "As".

(c) SECTION 4.—Section 4 (7 U.S.C. 136b) is amended—

(1) by striking out ": Provided, however, That the" in subsection (a)(1) and inserting in lieu thereof a period and "The", and

(2) by striking out ": Provided, That such" in subsection (c) and inserting in lieu thereof a period and "Such".

(d) SECTION 5.—Section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": Provided, That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6(e) (7 U.S.C. 136d(r)) is amended by striking out ": Provided, That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10 (7 U.S.C. 136h) is amended—

(1) by striking out ": Provided, That the" in subsection (d)(1) and inserting in lieu thereof a period and "The",

(2) by striking out ": Provided further, That this" in subsection (d)(1) and inserting in lieu thereof a period and "This", and

(3) by striking out ": Provided, That where" in subsection (d)(3) and inserting in lieu thereof a period and "Where".

(g) Section 12.—Section 12(a)(2)(F) is amended by striking out ": Provided, That it" and inserting in lieu thereof a period and "It".

(h) Section 13.—Section 13(c) (7 U.S.C. 136k(c)) is amended by striking out ": Provided, That upon" and inserting in lieu thereof a period and "Upon".

(i) Section 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": Provided, That the" and inserting in lieu thereof a period and "The", and

(2) by striking out ": And provided further, That all" in subsection (c)(1)(D)(i) and inserting in lieu thereof a period and "All".

*(j) Section 18.—The heading for section 18 (7 U.S.C. 136p) is amended by inserting "**AND STATE**" after "**FEDERAL**" and the second sentence is run in after the first sentence.*

(k) Section 21.—Section 21 (7 U.S.C. 136s) is amended—

(1) by inserting "SECRETARY OF AGRICULTURE.—" before "The" in subsection (a),

(2) by inserting "VIEWS.—" after "(b)", and

(3) by inserting "NOTICE.—" after "(c)".

(l) Section 24.—Section 24 (7 U.S.C. 136v) is amended—

(1) by inserting "STATE REGULATION.—" after "(a)",

(2) by inserting "UNIFORMITY.—" after "(b)", and

(3) by inserting "ADDITIONAL USES.—" after "(c)".

(m) SECTION 26.—Section 26 (7 U.S.C. 136w–1) is amended

(1) by inserting "IN GENERAL.—" after "(a)" in subsection (a),

(2) by inserting "SPECIAL RULES.—" after "(b)" in subsection (b),

(3) by inserting "ADMINISTRATOR.—" after "(c)", and

(4) by adding at the end the following:

"(d) Federal personnel.".

(n) SECTION 27.—Section 27 (7 U.S.C. 136w–2) is amended—

(1) by inserting "REFERRAL.—" after "(a)",

(2) by inserting "NOTICE OF INADEQUACY.—" after "(b)", and

(3) by inserting "CONSTRUCTION.—" after "(c)".

TITLE XXIX—TABLE OF CONTENTS AMENDMENTS

SEC. 2901. TABLE OF CONTENTS AMENDMENTS.

The table of contents contained in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by striking out the item relating to section 2(e) and inserting in lieu thereof the following:

"(e) Applicator.
  "(1) Commercial applicator.
  "(2) Private applicator.
  "(3) Certified applicator.
  "(4) Noncertified commercial applicator.
  "(5) Noncertified private applicator.
  "(6) Under the direct supervision of a certified applicator.";

(2) by striking out the item relating to section 2(n) and inserting in lieu thereof the following:

"(n) Ingredient statement.

(3) by adding at the end of the items relating to section 2 the following:

"(ff) Outstanding data requirement.
  "(1) In general.
  "(2) Factors.
"(gg) Antimicrobial.
"(hh) Pesticide testing facility.
"(ii) Importing country.
"(jj) Pesticide dealer.
"(kk) To distribute or sell.
"(ll) Groundwater.";

(4) by striking out the item relating to section 3(a) and inserting in lieu thereof the following:

"(a) Requirement of registration.";

(5) by striking out the item relating to section 3(c)(8) and inserting in lieu thereof the following:

  "(8) Public interim administrative review.

"(A) In general.
"(B) Criteria for initiating a public interim administrative review.
"(C) Review requirement.
"(D) Pre-review notice procedures.
"(E) Notice.
"(F) Review procedure.
"(G) Judicial review.";

(6) by adding at the end of the items relating to section 3(c) the following:

"(9) Preregistration access to data.";

(7) by striking out the item relating to section 3(g);

(8) by inserting after the items relating to section 3 the following:

"Sec. 3A. Reregistration of registered pesticides.
  "(a) General rule.
  "(b) Special authorities of Administrator.
    "(1) Guidelines.
    "(2) Monitoring.
    "(3) Suspensions and penalties.
  "(c) Reregistration phases.
  "(d) Phase one.
    "(1) Priority for reregistration.
    "(2) Reregistration lists.
    "(3) Judicial review.
    "(4) Notice to registrants.
  "(e) Phase two.
    "(1) In general.
    "(2) Notice of intent to seek reregistration.
    "(3) Missing or inadequate data.
    "(4) Time periods.
    "(5) Cancellation and removal.
  "(f) Phase three.
    "(1) Information about studies.
    "(2) Time periods.
    "(3) Cancellation.
  "(g) Phase four.
    "(1) Independent review and identification of outstanding data requirements.
    "(2) Time periods.
  "(h) Phase five.
    "(1) Data review.
    "(2) Reregistration and other actions.
  "(i) Compensation of data submitter.
  "(j) Fees.
    "(1) Initial fee for food or feed pesticide active ingredients.

"(2) Final fee for food or feed pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Other fees.
"(6) Apportionment.
"(k) Exemption of certain registrants.
"(l) Revolving fund.
"(m) Judicial review.";

(9) by adding at the end of the items relating to section 4 the following:

"(d) Commercial applicator certification.
"(e) Noncertified commercial applicator training and registration.
"(f) Noncertified private applicator training.
"(g) Certified private applicator training.
"(h) Recertification and reregistration.
"(i) Uniform training.
"(j) Minimum standards for training programs.
"(k) Private training programs.
"(l) Refresher training.";

(10) by striking out the items relating to section 6(a)(1) and 6(a)(2);

(11) by striking out the item relating to section 6(b) and inserting in lieu thereof the following:

"(b) Cancellation and change in classification or labeling.
"(1) Notice of cancellation or change in classification.
"(2) Hearing.
"(3) Factors.
"(4) Labeling changes.";

(12) by striking out the item relating to section 6(f) and inserting in lieu thereof the following:

"(f) Hearing procedures after public interim administrative review.
"(1) General rule.
"(2) Request for hearing.
"(3) Procedures.
"(g) General provisions.
"(1) Voluntary cancellation
"(2) Publication of notice.
"(3) Existing stocks.
"(4) Additional information.
"(h) Cancellation of registration based on false or invalid data.
"(1) Notice.
"(2) Invalid data.
"(3) False data.

"(4) Hearing.
"(i) Judicial review.";

(13) by adding at the end of the items relating to section 7 the following:

"(e) Fact sheets.
"(f) Information requests.";

(14) by striking out the items relating to section 8 and inserting in lieu thereof the following:

"Sec. 8. Records.
"(a) Authority to require records.
"(b) Limitations.";

(15)(A) by amending the item relating to section 9(a) to read as follows:

"(a) Authority to enter, inspect, and copy."; and

(B) by adding at the end of the items relating to section 9 the following:

"(d) Procedure.
"(e) Coordination.";

(16) by adding at the end of the items relating to section 10 the following:

"(h) Data disclosure to States.
"(1) In general.
"(2) Action for just compensation.";

(17) by adding at the end of the items relating to section 11 the following:

"(c) Records of commercial applicators.
"(d) Records of pesticide dealers.
"(e) Inspection of records.
"(f) Access to records.";

(18) by adding at the end of the items relating to section 12 the following:

"(c) Pesticide use.
"(d) Acts of officers, agents, etc.";

(16) by adding at the end of the items relating to section 14(a) the following:

"(6) Subpoenas.";

(19) by striking out the item relating to section 14(b)(4);

(20) by adding at the end of the items relating to section 15 the following:

"(c) Report.";

(21) by adding at the end of the items relating to section 16 the following:

"(e) Review of regulations.";

(22) by striking out the items relating to subsections (a) and (b) of section 17 and inserting in lieu thereof the following:

"(a) Pesticides and devices intended for export.
  "(1) Violations.
  "(2) Exports.
  "(3) Notification.
  "(4) Labels.
"(b) Cancellation notices furnished to foreign governments.
  "(1) Issuance.
  "(2) Contents.";

(23) by adding at the end of the items relating to section 17 the following:

"(f) Tolerances for agricultural commodities.
  "(1) Registration.
  "(2) Amendment of tolerance or regulation.";

(24) by adding below the item relating to section 21 the following:

"(a) Secretary of Agriculture.
"(b) Views.
"(c) Notice.";

(25) by adding at the end of the items relating to section 22 the following:

"(c) Effect on certain other laws.";

(26) by adding below the item relating to section 24 the following:

"(a) State regulation.
"(b) Uniformity.
"(c) Additional uses.";

(27) by adding at the end of the items relating to section 25(a) the following:

"(4) Congressional review of regulations.";

(28) by adding at the end of the items relating to section 25 the following:

"(f) Worker health and safety program.";

(29) by adding below the item relating to section 26 the following:

"(a) In general.
"(b) Special rules.
"(c) Administrator.
"(d) Federal personnel.";

(30) by adding below the item relating to section 27 the following:

"(a) Referral.
"(b) Notice of inadequacy.
"(c) Construction."; and

(31) by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Collection, dissemination, and utilization of data.
"(a) Data systems.
"(b) Data retrieval.
"(c) Index.
"(d) Report.
"(e) Confidentiality.
"(f) Authorization.

"Sec. 32. Tolerances and food additive regulations for agricultural commodities.
  "(a) Cancellation.
  "(b) Suspension.
  "(c) Reassessment.
  "(d) Construction.
"Sec. 33. Protection of groundwater.
  "(a) Notification.
    "(1) Requirement.
    "(2) Content of notification.
  "(b) Investigation and monitoring.
    "(1) Investigation.
    "(2) Monitoring.
    "(3) Judicial review.
  "(c) Groundwater action levels.
    "(1) Requirement.
      "(A) General rule.
      "(B) Groundwater action levels.
    "(2) Final agency action.
  "(d) Findings.
    "(1) Requirement.
    "(2) Procedures.
  "(e) Registration amendments.
    "(1) Requirement.
      "(A) Current points of human consumption.
      "(B) Potential points of human consumption.
    "(2) Procedures.
  "(f) Use prohibition.
    "(1) Requirement.
    "(2) Hearing.
    "(3) Termination of use prohibition.
    "(4) Judicial review.
  "(g) Public interim administrative review.
  "(h) Other authority.
"Sec. 34. Authorization for appropriations.".

TITLE XXX—EFFECTIVE DATE

SEC. 3001. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect upon the expiration of 60 days after the date of the enactment of this Act.

○

SUMMARY OF H.R. 2482 AS AMENDED BY THE COMMITTEE ON AGRICULTURE ON JUNE 5, 1986

Title I--Preregistration Access to Data

These provisions would amend section 3(c) of the FIFRA to allow public access to registration application health and safety data before EPA makes its registration decision, and provide for public comment on the application (currently, such information is not made public until 30 days after the registration is granted). Restrictions and penalties on data disclosed or used in furtherance of commercial purposes would protect confidential business information to preserve the proprietary rights of the registrant.

Title II--Conditional Registration

These provisions would amend section 3(c)(7) of the Act to restrict conditional registrations to those cases where the necessary data are being developed, or have been submitted to support the registration, especially if missing data concern possible chronic effects (e.g. animal cancer studies). Conditional registrations could not be granted to pesticides undergoing interim administrative review by EPA. Minor food and feed uses could receive special consideration by EPA if no effective alternative pesticide is available.

Title III--Registration & Fees

These provisions would amend section 3 of the Act to require that reregistration be completed in accordance with a new section 3A. Under new section 3A there would be five stages of registration:

(1) EPA would identify active ingredients which have not completed registration standard review (approximately 480 chemicals), in three separate groups of 150, 150, and 180 (groupings are to avoid bunching of the workload).

(2) the registrant would identify data gaps and clearly inadequate studies and agree to furnish these data to EPA (this will indicate the registrant's willingness to participate in reregistration). The data must be submitted within four years or less.

(3) the registrant would review its data about a pesticide, reformat certain key studies, and generally resubmit data to support registration to EPA. Key studies submitted before January 1, 1982 will be reformatted according to guidelines developed by EPA to facilitate review of the data. The registrant will submit these reformatted studies and other data within one year.

(4) EPA would review the data within 18 months for the first group (24 and 33 months for the later groups) and decide whether to reregister the product or to require further data. The data must be submitted in four years or less.

(5) after submission of all required data, EPA would make a reregistration decision within one year.

A one-time fee of $150,000 would be charged for the reregistration of each active ingredient. $50,000 of the fee would be paid when a desire to reregister is first indicated by the identification of missing and clearly inadequate studies, and $100,000 would be paid when the reregistration data package is submitted. Fees for non-food pesticides could be reduced, but not less than one-half of these amounts. For minor use pesticides, the Administrator could waive or reduce the reregistration fee.

If the registrant that owns the data decides not to pursue reregistration at any stage, other persons seeking to use the data could do so if they agree to the FIFRA data compensation provisions.

Title IV--Inert Ingredients

These provisions would amend sections 2 and 3(c) of the Act to give EPA explicit authority to review the inert ingredients of pesticide formulations and require health and safety data from registrants and producers of the inert ingredient.

Ingredient statements would be required to contain the name of each inert ingredient in a pesticide that the Administrator determines must appear in the ingredient statement because of the hazard that may be posed by the use pattern and concentration level of the inert ingredient in the pesticide.

Title V--Public Right-to-Know

These provisions would amend section 7 of the Act to require that registered pesticide production establishments provide the Administrator with fact sheets summarizing relevant health, safety, and environmental data. The fact sheets would be made available to the public by the Administrator. A list of locations where pesticides are produced would also be made available to the public under this provision.

Title VI--Data Disclosure to the States

These provisions would amend section 10 of the Act to allow the Administrator to disclose data and information to States if protection with respect to disclosure will be no less than the protection under FIFRA. EPA would also be required to develop a computerized data retrieval system to facilitate data sharing.

Title VII--Cancellation Procedures

These provisions would amend sections 3(c)8 and 6 of the Act to specify procedures for expediting an interim administrative review (Special Review) of a pesticide and cancellation hearings that may follow a review. Special Reviews would not be delayed due to lack of exposure data, although currently available exposure data could be considered in the decision to initiate a review. After a review is initiated, comments could be submitted to EPA, but any person submitting comments would be required to disclose all known scientific data concerning the toxicity, exposure, and benefits of the pesticide. Failure to make full disclosure if asked for more information by EPA could jeopardize later rights to ask for a cancellation hearing. Special reviews would be required to be completed in eighteen months; this period could be extended for another year if more time is needed to develop critical information.

If the result of the Special Review is a decision by EPA to cancel a pesticide product, any adversely affected party who previously submitted comments in the review could ask for a hearing. Prehearing activities, the presentation of evidence, and examination of witnesses is to be completed within certain deadlines, and the hearing would be completed (including a final decision by the Administrator) in a total of 300 days. This period could be extended for up to 180 days if necessary for a fair and accurate determination of pivotal facts central to the proceeding.

EPA would also be allowed to require label changes for a pesticide through informal rulemaking if necessary to prevent the use of the pesticide from causing unreasonable adverse effects on environment. This would be allowed only if the rulemaking would not delete the use of the pesticide on a particular crop or site, or otherwise make the pesticide product unmarketable.

Title VIII--False and Invalid Data

These provisions would amend section 6 of the Act to allow EPA to move to immediately suspend products which were registered with false or invalid data. Amendments to section 8 of the Act would also be made to authorize EPA to require certain recordkeeping information necessary for the effective implementation of FIFRA.

Title IX--Inspections

These provisions would amend section 9 of the Act to allow EPA, at reasonable times to enter, inspect, and take samples where pesticides are sold. Certain records at pesticide production establishments could be copied. Pesticide testing facilities could be inspected, and the Administrator would be authorized to enter places where there is probable cause to believe the Act is being violated.

Title X--Export of Pesticides

These provisions would amend sections 2 and 17 of the Act to require that label precautions required in the United States be on the label of exported pesticides (unless this violates the laws of the importing country). For pesticides not registered in the U.S., or cancelled, suspended, or restricted, prior notification would be given to the importer and government officials in the importing country. Notification would be given before the first shipment of each year. Information about EPA decisions to cancel or reclassify (as restricted use) pesticides would be transmitted to appropriate government officials of foreign countries. This information would be sent when the EPA decision is made and annually thereafter.

Tolerances for pesticides cancelled, suspended, or withdrawn would be revoked within 60 days of such action to prevent residues of these products from entering this country on imported commodities (unless the concerns were environmental only - such as unique American ecological concerns, or taken for economic reasons - such as prohibitive data development costs).

Title XI--Liability

These provisions would amend section 12 of the Act to provide that an agricultural producer will not be liable in any action brought under FIFRA or any other Federal law for damages caused by pesticides unless the producer acted negligently. Proof that label directions were followed would create a rebuttable presumption that the producer did not act negligently. An agricultural producer would also not be held liable for civil penalties under FIFRA unless a pesticide is applied in a manner inconsistent with its labeling.

Title XII--Certification, Training, and Recordkeeping

These provisions would amend sections 2 and 4 of the Act to require that all commercial applicators receive training about the safe use of pesticides. States would oversee the training programs, providing the training through State programs or through the certification of private programs which would meet certain standards.

Commercial applicators would have to take refresher courses at least every four years, and will be required to maintain records of pesticide use for at least two years.

EPA would be required to establish an occupational health program within the pesticide program office, and if appropriate and necessary, issue regulations to protect employees who mix, load, apply, or are exposed to pesticides.

Title XIII--State Authority

These provisions would amend section 24 of the Act to allow Special Local Needs registrations to expire at the end of the period approved by the State, and requires EPA to establish criteria for disapproving such registrations.

Title XIV--Definitions

These amendments would amend section 2 of the Act to define the terms: "use inconsistent with the label," and "to distribute or sell" a pesticide.

Title XV--Information Requested

This provision would amend section 7 of the Act to require EPA to make efforts to organize and retrieve data from registrants in ways that eliminate or reduce requests for data, especially confidential data.

Title XVI--State Cooperation, Aid, and Training

This provision would amend section 23 of the Act to authorize EPA to enter into cooperative agreements to provide 50 percent of the costs of training and enforcement programs to States and Indian tribes, and authorizes such sums as may be necessary for the cooperative agreements.

Title XVII--Scientific Advisory Panel

These amendments would amend section 25 of the Act to expand the Panel from seven to nine members and conform its termination date to the period that FIFRA is authorized.

Title XVIII--State Primary Enforcement Responsibility

This amendment would amend section 27 of the Act to clarify the role of the States in investigating misuse complaints, allowing the EPA to act if a State does not promptly initiate investigative action, or does not initiate appropriate enforcement action within ninety days of receiving a referral from the Administrator.

Title XIX--Unlawful Acts

These amendments to section 12 of the Act would define certain unlawful acts, including violations of recordkeeping requirements, falsifying laboratory testing data, and willfully submitting false data.

Title XX--Penalties

These provisions would amend section 14 of the Act to increase current FIFRA civil and criminal penalties for violation of the statute. Generally, they increase the maximum amount a violator can be fined: two times the current penalty for private applicators, and five times the current penalty for commercial applicators and pesticide dealers. Civil penalties for violations of the statute by registrants could be as high as $25,000 for the first offense.

Title XXI--Congressional Review

This amendment to section 25 of the Act would allow Congress sixty calendar days to review regulations issued under FIFRA during which time the regulation is not effective. Current provisions of the Act require that Congress be in session for sixty days.

Title XXII--Review of Regulations

This amendment would amend section 16 of the Act to clarify the right to challenge regulations issued under FIFRA.

Title XXIII--Delegation and Cooperation

This amendment would amend section 22 of the Act to clarify the respective roles of EPA and the Department of Labor regarding workplace exposure to pesticides, and requires that their efforts avoid duplicative and conflicting regulation.

Title XXIV-Indemnities

This provision would amend section 15 of the Act to require EPA to report to Congress about suspension actions taken that will require idemnification, including an estimate of the cost of idemnification, and the effects such costs would have on EPA's budget if specific additional appropriations are not made. EPA must also request the appropriation of funds for such idemnification payments.

Title XXV--Response to Pesticide Detection in Groundwater

These amendments would require EPA to take certain actions once pesticide residues are detected in groundwater. Once EPA learns of such residues, an action level for the pesticide must be determined. If residues in the groundwater which is being used for human consumption exceeds this action level, the use of the pesticide must be prohibited or the registration amended to reduce the residue level below the action level. If there is a reasonable likelihood that the action level will be exceeded at a point of current human consumption, the Administrator must require registration amendments to ensure the action level will not be exceeded. Where there is a potential point of human consumption and a reasonable likelihood the action levels will be exceeded, the Administrator can require registration amendments taking into consideration the potential points of consumption likely to be used.

Title XXVI--Authorization for Approprations

This amendment would authorize appropriations to carry out the provisions of the statute.

Title XVII--Miscellaneous

These amendments would specifically authorize the IR-4 program, and direct the Administrator to contract for a study to determine the feasibility of establishing an environmental risk rating for pesticides used in the production of agricultural products.

Hatcher

Section 302 (j)(4) is amended by adding a new paragraph (C), that reads as follows:

"(C) In the case of a small business registrant that produces an active ingredient of a pesticide, the Administrator may, upon application and in the sole discretion of the Administrator, reduce or waive the fees prescribed by paragraph (3). For the purpose of this subsection, a small business is an unincorporated business, partnership, or corporation that has an average annual gross revenue for pesticides for the last three years prior to registration that did not exceed $20 million and has 125 or less employees."

Stenholm #1

AMENDMENT TO H.R. 2482

Offered by Mr. Stenholm

(Chlorobenzilate Amendment)

On page 60, at lines 6 and 7, delete:

"...(including a person without an econimic interest in such pesticide)..."

On page 63, line 22, delete:

"...and shall have the burden of proof..."

FIFRA55

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BEDELL

Page 68, insert after line 17 the following:

``(E) Upon receiving a request for a hearing from a person without an economic interest in the pesticide with respect to which the hearing is requested, the Administrator shall convene such a hearing if it appears to the Administrator that the request presents a genuine and substantial issue of fact pertaining to whether such pesticide poses an unreasonable risk to man or the environment.

Stenholm #2

AMENDMENT TO H.R. 2482

Offered by Mr. Stenholm

(Label Changes By Rulemaking Amendment)

Delete On page 64, at line 20, through page 72, at line 8, and inserting in lieu thereof the following:

(4) Label Changes.-- The Administrator may require changes to the labeling of a pesticide by informal rulemaking unless the changes are equivalent to a cancellation of a use, render the product unmarketable, or otherwise have a major adverse impact on adversely affected persons, in which case the changes shall be subject to the hearing procedures provided in this section. Label changes issued through informal rulemaking shall not be effective pending any judicial review requested under section 16 after a final order of the Administrator.

FIFRA60

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MR. BEDELL

[Labeling Changes]

~~Page 69, strike out lines 9 through 14 and insert in lieu thereof the following:~~

~~``(ii) would not--~~

~~``(I) be equivalent to a cancellation of a use or render the product unmarketable, and~~

~~``(II) have a major adverse impact on the producers of an agricultural commodity,~~

~~Page 72, line 8, strike out the close quotation marks and the period following and insert after that line the following:~~

``(E)(i) Except as provided in clause (ii), in an action under 16(e) for review of a regulation issued under subparagraph (B), the court shall, upon request, postpone the effective date of the regulation until completion of the review action if the petitioner shows--

``(I) a likelihood of success on the merits in such action, and

``(II) that the implementation of the regulation before completion of the action would cause a risk of substantial harm to the petitioner.

``(ii) A court in a review action under section 16(e) shall not postpone the effective date of a regulation issued under subparagraph (B) if the Adminstrator shows that failure to implement the regulation before completion of the action would cause a risk of substantial harm to health or the environment.''.

FIFRA56

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. MORRISON

[Lack of Essentiality]

Page 110, line 21, strike out ``and'', on page 11 strike out the period in line 2 and insert in lieu thereof ``, and'', and by adding after line 2 the following:

(3) by adding after the first sentence in paragraph (1) the following: ``A State may not use lack of essentiality as the sole criterion in determining whether or not to provide such a registration to meet special local needs.''.

Stenholm #3

AMENDMENT TO H.R.2482

Offered by Mr. Stenholm

(Unlawful Acts Amendment)

On page 117, at lines 7 through 9, delete:

" (u) to violate any regulation issued under section 3(a), 4(a), 10(e), 17(c), 17(e), 19(a), or 25(c) of this Act."

FIFRA28

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. MORRISON

[**Worker Health and Safety**]

Page 136, insert after line 25 the following:

TITLE XXVI--WORKER HEALTH AND SAFETY

SEC. 2601. AUTHORITY OF THE ADMINISTRATOR.

(a) SECTION 25.--Section 25 (7 U.S.C. 136w) is amended by adding at the end the following:

``(f) WORKER HEALTH AND SAFETY.--

``(1)(A) The Administrator shall, as soon as practicable, promulgate regulations which require the protection, as appropriate and necessary, of employees who mix, load, or apply pesticides and agricultural employees who work in pesticide-treated areas.

``(B) The Administrator shall promulgate regulations which provide for the training, as appropriate and necessary, of employees who mix, load, or apply pesticides. Any training requirement which may be established by the Administrator under this subparagraph shall not apply to any person who is required to receive the training described in subsection (d) or (e) of section 4.

``(C) For purposes of subparagraphs (A) and (B), the term `employees´ does not include employees occupationally exposed to pesticides or pesticide residues as a result of the use of pesticides on livestock or other animals.

``(2)(A) The Administrator shall promulgate regulations under paragraph (1) for employees not described in subparagraph (B) not later than 3 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Amendments of 1986.

``(B) The Administrator shall provide a comment period of at least 6 months for regulations proposed under paragraph (1) which apply to agricultural employees who mix, load, or apply pesticides or who work in pesticide-treated areas. Such regulations shall be promulgated not later than 2 years after the date of the enactment of the Federal Insecticide, Fungicide, and Rodenticide Amendments of 1986.

``(3) Not later than 6 months from the date of the publication of the notice of proposed rulemaking issued for the regulations for employees described in paragraph (2)(B) to be promulgated under paragraph (1), the Secretary of Agriculture shall submit to the Administrator a report on the impact, cost, and effectiveness of such regulations on the agricultural community. The Secretary shall submit a copy of such report to the Congress.

``(4) Simultaneously with the promulgation of regulations under paragraph (1), the Administrator shall transmit a copy of such regulations to the Secretary of the Senate and the Clerk of the House of Representatives. Such regulations may not become effective until the expiration of 120 days after the date such regulations are so transmitted.''.

(b) SECTION 12.--Section 12(a)(2) (7 U.S.C. 136j(a)(2) as amended by section 1901(a)(3)) is amended by inserting after subparagraph (Q) the following:

``(U) to violate the regulations issued by the Administrator under section 25(f);''.

Redesignate the succeeding titles and sections accordingly and make appropriate table of contents amendments.

Page 108, strike out line 14 through line 18 on page 109. Page 110, insert close quotation marks at the end of line 3 and strike out lines 4 and 5.

Page 116, line 19, strike out ``(S)'' and insert in lieu thereof ``(R)'', and on page 117, strike out ``(T)'' in line

4 and insert in lieu thereof ``(S)´´ and in line 7, strike out ``(U)´´ and insert in lieu thereof ``(T)´´.

Page 151, after line 8 strike out ``program´´.

Titles XXVI through XXX and the sections of such titles are redesignated accordingly and the table of contents is amended to reflect the amendment.

Morrison

Report language to accompany Title XXVI of H.R. 2482

This title creates a mandatory duty for the administrator to issue regulations to 1) protect employees who mix, load, and apply pesticides and agricultural employees who work in pesticide-treated areas and 2) train employeess who mix, load, and apply pesticides. The content and scope of such regulations shall be determined by the Administrator as deemed appropriate and necessary. One intent of this title is to provide statutory direction to EPA to proceed with their current efforts to issue farmworker regulations. This title is not intended to alter the content or scope of the farmworker regulations under review by EPA.

The EPA shall continue to develop and maintain expertise on working conditions and practices of workers exposed to pesticides and use this expertise for such activities as evaluating registration, reregistration, public interim administrative review, and cancellation decisions with respect to effects of such actions on worker health and safety.

BROWCA064

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BROWN

[Cost Sharing]

Page 139, insert after line 6 the following:

SEC. 2705. SHARING OF COSTS OF ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.

Subparagraph (B) of section [illegible](c)(2) (7 U.S.C. 136a(c)(2)) is amended to read as follows:

``(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATIONS.--

``(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide product (or a category of products) containing a particular ingredient, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested persons. The notice shall specify the data required, the date by which the data shall be submitted, and the procedure for obtaining rulings by the Administrator on questions concerning the applicability of the notice to various registrants or concerning the nature of the data required to be submitted.

``(ii) Each registrant of such a pesticide product to whom the notice is applicable shall provide evidence within 90 days after receipt of the notification specified in clause (i) of this subparagraph that it is taking the appropriate steps prescribed by the Administrator to secure the required data. If more than one registrant is subject to the notice, such steps shall include entering into a joint data development arrangement, unless the registrants subject to the notice unanimously agree otherwise. The joint data developers shall furnish to the Administrator the name, address, and telephone number of the person to whom inquiries concerning the arrangement should be addressed. As an initial cost of participation the joint data developers shall divide equally 25 percent of the estimated total cost of producing the required data or each shall pay $100,000, whichever is less. The balance of the cost of producing the data shall be paid by the joint data developers as needed, and shall be shared by each joint data developer on the basis of its United States market participation for the pesticide being tested, based on total pounds of active ingredient equivalent sold or used annually. Each such share shall be at least 5 percent of the balance of the cost. If the share of any participant is increased by virtue of such minimum 5 percent requirement, the balance of the cost to be shared by the other participants shall be reduced proportionately. Each joint data developer's market participation shall be adjusted during the period of the data development so that the most recent sales figures are used to compute each member's market share for the purpose of determining its share of the remaining cost of producing the required data. Each of the joint data developers shall submit adequate evidence of its annual market participation to an independent auditor for each of the years during the period of the joint data development. Such independent auditors shall be chosen by the joint data developers. The auditor's decisions and determinations shall be final and binding on each of the joint data developers. If further data are required by the Administrator under this paragraph, either before or after the additional data that were originally requested have been submitted, the same formula and procedure specified in this paragraph shall apply as if the subsequent request were the initial request for data. Any registrant who shares in the cost of producing the data shall be entitled to receive a copy of the data, and to examine and rely upon such data in support of maintenance of such registration.

``(iii) Notwithstanding any other provision of this Act, if a registrant who is subject to the notice from the Administrator, within the 90-day period prescribed in clause (ii) of this subparagraph, fails to enter into a joint data development arrangement under that clause, or if any of the joint data developers fails to take appropriate steps to secure and submit the required data, the Administrator shall issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data are required. The terms of such joint data development arrangement shall be enforceable in an action brought by any developer in any district court of the United States having jurisdiction over all of the defendants or in the United States District Court for the District of Columbia, and such action shall be governed by the law of the District of Columbia. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of 30 days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide product for which additional data is required and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a determination shall be made within 75 days after receipt of a request for such hearing, and the decision made after completion of such hearing shall be final. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

``(iv) Except as provided in clause (v) of this subparagraph, data submitted pursuant to this subparagraph (before or after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986) shall not be considered by the Administrator to support any application for registration, amended registration, reregistration or experimental use permit on behalf of any person other than the joint data developers for a period of 15 years after the data are submitted, unless the applicant has made an offer to compensate the joint data developers in accordance with paragraph (1)(D) of this subsection. Such compensation shall be divided among the original participants based on the percentage of the overall monetary participation in the joint data development arrangement.

``(v) With respect to any study which has been or is being performed in response to a request for additional data issued under this subparagraph between September 30, 1978, and the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, any person who on such date of enactment is the registrant of a product of the type to which that request applies but who is not already a party to an agreement to share in the cost of performing that study shall be entitled to enter into a joint data development arrangement with any person or group which is performing or has performed that study, under which arrangement such person shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph. Any registrant who wishes to be availed of the rights provided by this clause shall, not later than 120 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, submit an irrevocable offer to enter into such an arrangement to the person or group which is performing or has performed the study.''.

(h) Procedures for developing additional data

A substantially modified procedure governing the joint development of additional data to support existing registrations of pesticides is established by H.R. 5203.

The procedures for developing additional data under existing law have proven to be unsatisfactory to the industry and subject to litigation. The importance of revising the system is underscored by, the Agency's intention to impose requests for replacement studies on dozens of older, yet widely used pesticides. Most of these products are no longer covered by patents and generally earn a lower margin of profit than proprietary products. Hence, some companies may experience difficulty in recoverying the costs of developing additional data. The new procedure laid out in H.R. 5203 for joint development of additional data on established products is supported by all requests of the industry.

When the Administrator requests additional data to support the existing registrations of a pesticide, all companies holding a registration on the product are given 180 days to join together in a task force convened specifically for the purpose of satisfying the Agency's data requirements. A simply formula is established by which members of a task force can share in the cost of the developing the data taking into account both the relative sizes of each individual company's share of the market and the up-front risks entailed in developing data which may or may not assure continued access to the marketplace.

As attempted in the other changes to the registration system contained in H.R. 5203, the procedure established for joint data development is explicitly and systematically spelled out. Detailed procedures are included in the statute in order to minimize and narrow disputes, thereby reducing the chance and complexity of future litigation. The process is also designed to facilitate company compliance with the process and to function largely outside EPA. If disputes arise among task force members, the terms of the agreement are enforceable in Federal district court without involving the EPA.

If a registrant chooses not to join a task force, or fails to take appropriate steps to secure and submit the required data, the Agency is directed to issue that registrant a notice of intent to suspend that company's registrations of pesticide products containing the active ingredient under review. The registrant may request a hearing to contest the Administrator's notice. At the hearing, the registrant may challenge whether the Administrator has "a valid and reasonable basis for requiring the additional data." This new provision provides a new procedural check against the Agency imposing arbitrary requests for additional data.

Data developed by a task force is afforded 15 years of shared exclusivity from the date of submission, although other registrants may buy into the task force after its completion by paying an equal share of the real cost of producing the data (original cost adjusted for inflation) in proportion to the number of companies participating in the task force.

Another provision allows a company to voluntarily submit to EPA replacement studies which were developed in recognition of

the scientific inadequacy of some existing data. Voluntarily submitted data may receive the same protections afforded other data under this section (15 years exclusive use) under certain explicit conditions designed to protect the rights and interests of all companies holding registrations on the active ingredient in question. H.R. 5203 includes a provision whereby the other companies are provided an opportunity to enter into a joint data development agreement with the registrant voluntarily submitting data to support an existing registration.

CANCELLATION AND CHANGE IN CLASSIFICATION

Section 4 of H.R. 5203, as amended, makes a number of changes in the procedural rules and criteria governing cancellation actions or changes in classification.

One of these changes reaffirms the Administrator's authority to phase out selected uses of pesticides in lieu of immediate cancellation in cases where action under section 6(d) of FIFRA is warranted. Under certain circumstances, a gradual but explicit phase out of a particular use of a pesticide may be the preferred approach to protect public health while not imposing excessive economic burdens on affected producers or users of the pesticide. Phase out periods also may provide an opportunity for alternative control technologies to be perfected and adopted.

Other changes direct the Administrator to continue to appraise the economic impact of a pesticide cancellation decision on all affected parties. The Administrator is directed to base his assessment on an appraisal of the biologic and economic impacts of the cancellation action, taking fully into account the comments of the Secretary of Agriculture on the proposed action. The Committee views these changes as necessary in order to assure that the Administrator will continue to fully consider both the national, local, and individual impacts of cancellation decisions. In the past, rather severe local economic impacts on affected agricultural user groups have occasionally been obscured by stating the physical and economic impact of a cancellation decision soley in terms of national production, farm income, and consumer food cost figures.

PROTECTION OF TRADE SECRETS AND DATA DISCLOSURE

Companies applying for pesticide registrations are required by the EPA to submit or make reference to data on the properties of the pesticide. The cost of developing the data needed to support registration of a pesticide often runs to millions of dollars.

The data developed by pesticide manufacturers and submitted to EPA are the primary source of information used by the Agency in determining whether the pesticide can be used without imposing an unreasonable adverse impact on man or the environment. At public concern grew about the safety of pesticides during the late 1960's and 1970's, individuals and public interest groups began to question, and at times actively oppose, the Agency's determination with respect to pesticide safety. Public access to pesticide safety and health data has emerged as an important concern of public interest group attempting to monitor and oversee the adequacy of EPA's pesticide decisionmaking.

Bedell

FIFRA54

Amendment to Committee Print of H.R. 2482

[Tolerances]

Page 93, strike out line 6 and all that follows through line 9 on page 96 and insert in lieu thereof the following:

(a) Revocations and suspensions.--Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) is amended by adding at the end the following:

``(p)(1)(A) If the registration of each pesticide containing a specific active or inert ingredient registered for a particular food or feed use--

``(i) has been cancelled by the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act,

``(ii) has voluntarily been cancelled under such Act, or

``(iii) has voluntarily been withdrawn under such Act,

due in whole or in part to risks to humans, the Administrator shall, not later than 60 days after the effective date of such cancellation or after receipt of knowledge of such withdrawal, revoke any tolerance established under subsection (b) for any pesticide chemical which is or contains such ingredient or any exemption from a tolerance established under subsection (c) for such pesticide chemical. In revoking a tolerance or an exemption from a tolerance, the procedures required under section 553 of title 5, United States Code, shall be used.

``(B) The effective date of a revocation under subparagraph (A) may be delayed in order to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of--

``(i) the use of the cancelled pesticide before the date of its cancellation,

``(ii) the use of existing stocks of such pesticide as authorized under the order cancelling the registration of the pesticide, or

``(iii) unavoidable residual environmental contamination.

``(2) If the registration of each pesticide containing a specific active or inert ingredient registered for a particular food or feed use has been suspended by the Administrator under the Federal Insecticide, Fungicide, and Rodenticide Act due in whole or in part to risks to humans, the Administrator shall, not later than 60 days after the effective date of such suspension, suspend any tolerance established under subsection (b) for any pesticide chemical which is or contains such ingredient or any exemption from a tolerance established under subsection (c) for such pesticide chemical. The effective date of such suspension may be delayed in order to permit distribution in commerce of food that bears residues of the active or inert ingredient as the result of--

``(A) the use of the suspended pesticide before the date of its suspension,

``(B) the use of existing stocks of such pesticide as authorized under the order suspending the registration of the pesticide, or

``(C) unavoidable residual environmental contamination.

In suspending a tolerance or an exemption from a tolerance, the procedures required under section 553 of title 5, United States Code, shall be used. The suspension of a tolerance or an exemption from a tolerance for a pesticide chemical shall be effective as long as the registration of the pesticide to which the tolerance or exemption is applicable is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act. If the registration of the pesticide ceases to be suspended and is not cancelled under such Act, the Administrator shall suspend any such suspension.

``(3) At the time the Administrator makes a determination under section 3A(h)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act regarding an active ingredient or a determination under section 3A(h)(2)(C) of such Act regarding an inert ingredient, any tolerance established under subsection (b) for a pesticide chemical which is or contains such ingredient or any exemption from a tolerance established under subsection (c) for such pesticide chemical shall be reassessed and such tolerance or exemption shall be established, amended, or revoked as necessary.''.

(b) PROCEDURE.--Section 408(m) of such Act is amended by striking out ``The'' and inserting in lieu thereof ``Except as provided in subsection (p), the''.

Page 93, line 4, strike out ``**AND REGULATIONS**'' and amend the table of contents.

Page 152, strike out the items relating to section 32 and redesignate the items relating to sections 33 and 34 as items relating to sections 32 and 33.

Page 49, line 21, strike out ``34'' and insert in lieu thereof ``33'' and on page 137, lines 4 and 7, strike out ``34'' and insert in lieu thereof ``33''.

Page 125, strike out lines 4 and 5 and insert in lieu thereof the following:

The Act (as amended by section 601) is amended by adding after section 31 the following:

Page 125, line 6, strike out ``33'' and insert in lieu thereof ``32''.

Stenholm #4

AMENDMENT TO H.R. 2482

Offered by Mr. Stenholm

(One-Bite Rule Amendment)

On page 122, beginning at line 24, through page 123 line 5, delete the following:

" (2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act or any appeal therefrom or in any proceeding under this Act or any appeal therefrom or in any proceeding under section 13, 14, or 16(c) or any appeal therefrom."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 12, 1986

(Sub) Committee: Forests, Family Farms and Energy

met at 10:15 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 2631, the Forest Ecosystems and Atmospheric Pollution Research Act

The following Members were present:

Mr. Whitley
Mr. Weaver
Mr. Olin
Mr. Stallings
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Smith, Robert (Oreg)
Mr. Schuette
Mr.
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Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
John Conrad, Minority Consultant
Jim Lyons, Subcommittee Staff Director
Francie Monaghan, Staff Assistant

Witnesses:

Present to respond to questions:

1. Mr. Wade Ballou, Office of Legislative Counsel
2. Mr. Patrick Broderick, Office of Legislative Counsel

Thursday, June 12, 1986
Subcommittee on Forests, Family Farms
and Energy
Business Meeting
Forest Ecosystems and Atmospheric
Pollution Research Act of 1985
H.R. 2631

Action Taken

-- Without objection Weaver substitute amendment to H.R. 2631 approved.

-- By voice vote Whitley technical amendment to Weaver substitute amendment agreed to.

-- By voice vote Weaver motion to report H.R. 2631, as amended, to full Committee agreed to.

Chairman Whitley called the meeting to order for the purpose of considering H.R. 2631, the Forest Ecosystems and Atmospheric Pollution Research Act of 1985, and called attention to the attached amendment in the nature of a substitute. After a brief opening statement, the Chair recognized Mr. Weaver and Mr. Morrison for their remarks.

Mr. Weaver offered the attached amendment in the nature of a substitute. (Bill explanation also attached.) After explaining the substitute, he moved its adoption and without objection the Weaver substitute amendment was adopted.

Mr. Smith of Oregon asked for clarification of certain language on page 2, line 9, of the substitute amendment. After a brief explanation by Subcommittee staff, the Chairman, addressing Mr. Smith's concerns, offered the following technical amendment:

> Page 2, line 9, insert after "inventories," the phrase "in matters that relate to atmospheric pollution,"

Discussion occurred and by a voice vote the Whitley technical amendment was agreed to.

Mr. Weaver moved that H.R. 2631, as amended, be reported to the full Committee with the recommendation that it do pass. The motion was approved by a voice vote in the presence of a quorum (7 Members present and voting).

At 10:30 a.m., the meeting was adjourned, subject to the call of the Chair.

Francie Monaghan
Francie Monaghan

I

99TH CONGRESS
1ST SESSION

H. R. 2631

To provide for study and research on the decline in United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1985

Mr. WHITLEY (for himself and Mr. MORRISON of Washington) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To provide for study and research on the decline in United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Forest Ecosystems and Atmospheric Pollution Research Act of 1985."

SEC. 2. (a) The Congress finds and declares that forest productivity and regeneration is declining in certain regions of the country.

(b) The Congress declares that it is the purpose of this Act to:

(1) identify the causes of the declining forest productivity and growth;

(2) accelerate and expand existing research efforts to evaluate the effects of atmospheric pollution on forest ecosystems; and

(3) increase ongoing forest inventory and monitoring to determine the scope and severity of the decline in domestic forest productivity.

Sec. 3. (a) The Secretary of Agriculture, acting through the Forest Service, shall conduct research to determine the causes of declining forest productivity and the effects of air pollution on forest growth, regeneration, and forest ecosystems. Such research shall include a review of existing information on the nature, extent, and cause of declining forest productivity in North America and Europe.

(b) The Secretary of Agriculture shall use his existing authority under the Forest and Rangeland Renewable Resources Act of 1978 (16 U.S.C. 1600–1641) to undertake such physical, chemical, biological, atmospheric, or other research and monitoring as may be necessary to identify the direct and indirect causal agents which may contribute to the declining vigor of the Nation's forests, and to carry out the research required by this Act.

(c) Within one year from the date of enactment of this Act, the Secretary of Agriculture shall submit an initial report to Congress which shall include, but not be limited to, a discussion of the state of the existing knowledge on declining forest growth, status of ongoing research; and additional research and monitoring that is needed to determine the extent of forest decline in the United States.

(d) Within three years from the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress an interim report on the study and research required by this Act. The report shall include, but not be limited to, a review of research on the problem of declining forest productivity in both North America and Europe; findings to date of ongoing research; and recommendations for continued research and monitoring. Within ten years from the date of enactment of this Act, the Secretary shall submit a final report to Congress, which shall include, but not be limited to, a review of all research conducted as required by the Act, and recommendations to mitigate against further decline of the Nation's forest resources.

(e) In conducting the research required under this Act, the Secretary of Agriculture shall seek the cooperation and assistance of Federal agencies, public and private universities, industry, testing laboratories, local and State governments, and other interested groups and individuals.

Sec. 4. There is hereby authorized to be appropriated for each of the ten fiscal years beginning with fiscal year 1986 the sum of $25,000,000 to carry out this Act. Such funds shall be in addition to other funds authorized to be appropriated to carry out the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1600–1641) and shall be available until expended.

PAB005

[JUNE 10, 1986]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2631

OFFERED BY ____________

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Forest Ecosystems and Atmospheric Pollution Research Act of 1986''.

SEC. 2. FINDINGS.

The Congress finds that--

(1) the health and productivity of forests in certain regions of the United States is declining;

(2) existing research indicates that atmospheric pollution, including ozone, acidic deposition, and heavy metals may contribute to this decline;

(3) there is an urgent need to expand and better coordinate existing Federal, State, and private research, including research by private industry, to determine the cause of changes in the health and productivity of domestic forest ecosystems and to monitor and evaluate the effects of atmospheric pollutants on such ecosystems; and

(4) such research and monitoring should not impede efforts to control atmospheric pollutants.

SEC. 3. ESTABLISHMENT OF RESEARCH PROGRAM.

Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by adding at the end the following:

``(c)(1) The Secretary, acting through the United States Forest Service, shall establish not later than 180 days after the date of the enactment of this subsection a 10-year program (hereinafter in this subsection referred to as the `Program') to--

``(A) increase the frequency of forest inventories and conduct such surveys as are necessary to monitor long-term trends in the health and productivity of domestic forest ecosystems;

``(B) determine the scope of the decline in the health and productivity of domestic forest ecosystems;

``(C) accelerate and expand existing research efforts (including basic forest ecosystem research) to evaluate the effects of atmospheric pollutants on forest ecosystems and their role in the decline in domestic forest health and productivity;

``(D) study the relationship between atmospheric pollution and other climatological, chemical, physical, and biological factors that may affect the health and productivity of domestic forest ecosystems;

``(E) develop recommendations for solving or mitigating problems related to the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems;

``(F) foster cooperation among Federal, State, and private researchers and encourage the exchange of scientific information on the effects of atmospheric pollutants on forest ecosystems among the United States, Canada, Europe, and elsewhere; and

``(G) support the long-term funding of research programs and related efforts to determine the causes and effects of atmospheric pollutants on the health and productivity of domestic forest ecosystems.

``(2) To advise the Secretary in developing the program, the Secretary shall establish a committee composed of scientists with training and experience in various disciplines including atmospheric, ecological, and biological sciences. Such scientists shall be selected from among individuals who are actively performing research for Federal or State agencies or for private industries, institutions, or organizations.

``(3) The Secretary shall coordinate the Program with existing research efforts of Federal and State agencies and private industries, institutions, or organizations.

``(4) The Secretary shall submit to the President and to the Congress the following reports:

``(A) Not less than 30 days before establishing the

Program, the Secretary shall submit an initial program report--

``(i) discussing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

``(ii) outlining the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems;

``(iii) describing the Program; and

``(iv) estimating the cost of implementing the Program for each fiscal year of its duration.

``(B) Not later than January 15 of each year during which the Program is in operation following the year in which the initial program report is submitted, the Secretary shall submit an annual report--

``(i) updating information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

``(ii) updating the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems, including efforts conducted under the Program;

``(iii) recommending additional research and monitoring efforts to be undertaken under the Program to determine the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems; and

``(iv) recommending methods for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.

``(C) Not later than 10 years after the date on which the initial program report is submitted, the Secretary shall submit a final report--

``(i) reviewing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

``(ii) reviewing the nature and findings of all research and monitoring efforts conducted under the Program and any other relevant research and monitoring efforts related to the effects of atmospheric pollution on forest econsystems;

``(iii) making final recommendations for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.''.

Amendment in the Nature of a Substitute to H.R. 2631

Section - by - Section Analysis

Section 1 - The title, "Forest Ecosystems and Atmospheric Pollution Research Act of 1986"

Section 2 - Findings

This section finds that certain regions of the U.S. are experiencing declines in forest productivity; that atmospheric pollution, including ozone, acidic deposition, and heavy metals many contribute to those declines; that there is an urgent need to expand and coordinate research on all levels; and that this effect should not impede efforts to control atmospheric pollutants.

Section 3 - Establishment of Research Program

This section amends the Forest and Rangeland Renewable Resources Research Act to direct the U.S. Forest Service to establish a 10-year comprehensive program to increase ongoing forest inventories and monitor long term forest health and productivity trends, determine the scope and severity of the situation, to expand and accelerate existing research efforts, study the relationship between atmospheric pollution and other climatological, chemical, physical and biological factors, and to develop recommendations to mitigate or solve these problems. It also encourages increased cooperation and the exchange of information between the U.S., Canada, and Europe. Finally it seeks "to promote a stable, long-term commitment of resources to fund adequately research programs and related efforts".

This section also authorizes the Secretary of Agriculture to establish a multidisciplinary committee of scientists to develop the program, and to integrate the program with other federal, state, and private agencies and institutions.

Finally this section requires the Secretary to submit the following reports to the President and the Congress:

(1) 30 days prior to establishing the program an Initial Program Report, to include a discussion on existing information, the status of all research and monitoring activities in North American and Europe, recommendations for additional research and monitoring activities, the 10 year program to implement them and the estimated cost for each year of the program;

(2) an annual report due by January 15 each year discussing existing information, the status of all research and monitoring activities, recommendation for additional research and recommendations to mitigate or solve the

problems, and;

(3) a Final Report, due ten years from the completion of the First Annual Report, discussing all existing information, reviewing all research and monitoring activities, and making final recommendations to mitigate or solve problems related to the effects of atmospheric pollutants on the health and productivity of forest systems.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 12, 1986

~~(Sub)~~ Committee: Full

Business Meeting - a.m.

met at 10:15 a.m o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. Bedell
Mr. English
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Thomas
Mr. Olin
Mr. Stallings
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Mr. Madigan
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Evans (Iowa)
Mr. Franklin
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present:

Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director
Jim Davis, Staff Assistant

Witnesses:

Present to respond to Member's questions:

1. Mr. David Meade, Office of Legislative Counsel, U.S. House of Representatives
2. Mr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency
3. Mr. Ed Gray, Office of General Counsel, Environmental Protection Agency

Thursday, June 12, 1986
Full Committee
Business Meeting - a.m.
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 2482

Action Taken:

-- By voice vote Bedell amendment on state primary enforcement agreed to.

-- Without objection Bedell amendment changing date to Stenholm one-bite rule amendment agreed to.

-- By roll call vote 17 yeas-13 nays Bedell substitute amendment to Stenholm amendment on one-bite rule approved.

Acting Chairman Daschel called the meeting to order and Mr. Bedell explained the status of the pending Stenholm one-bite rule amendment. Mr. Stenholm advised that he was still working on language and asked the Committee to defer consideration of his amendment until later.

Mr. Bedell offered the attached amendment on state primary enforcement. Discussion occurred and by a voice vote the proposal was agreed to.

Discussion returned to the pending Stenholm amendment. (See minutes of June 11 for copy of amendment.) Discussion occurred. Mr. Bedell offered the attached substitute amendment on review of regulations and discussion continued.

Mr. Bedell asked unanimous consent to amend the Stenholm amendment to change the length of time from 60 to 120 days and there was no objection. Discussion continued. By a show of hands vote of 8 yeas-9 nays the Bedell substitute amendment was not approved. Mr. Bedell requested a record vote and a sufficient number of Members supported the request. The vote follows:

YEAS

1. Mr. Brown
2. Mr. Rose
3. Mr. Bedell
4. Mr. Daschle
5. Mr. Volkmer
6. Mr. Hatcher
7. Mr. Madigan
8. Mr. Roberts
9. Mr. Evans (Iowa)
10. Mr. Weaver
11. Mr. Panetta (proxy to Mr. Bedell
12. Mr. Glickman (proxy to Mr. Bedel
13. Mr. Staggers (proxy to Mr. Bedel
14. Mr. English
15. Mr. Evans (Ill.)(proxy to Mr. Bedell)
16. Mr. Penny
17. Mr. Gunderson

Thursday, June 12, 1986
Full Committee
Business Meeting - a.m.
Federal Insecticide, Fungicide,
and Rodenticide Act Amendments
H.R. 2482

NAYS

1. Mr. Whitley
2. Mr. Stenholm
3. Mr. Thomas
4. Mr. Olin
5. Mr. Stallings
6. Mr. Stangeland
7. Mr. Morrison
8. Mr. Smith
9. Mr. Combest
10. Mr. Schuette
11. Mr. Emerson
12. Mr. Hopkins (proxy to Mr. Madiga
13. Mr. Marlenee

Thus, by a roll call vote of 17 yeas-13 nays the Bedell substitute amendment was agreed to.

At 11:00 a.m. Acting Chairman Daschle adjourned the meeting to reconvene at 2:00 p.m this date to continue consideration of the Stenholm amendment, as amended, and other amendments to H.R. 2482.

Glenda Temple
Glenda Temple

FIFRA12

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BEDELL

[State Primary Enforcement]

Page 121, insert after line 6 the following:

(d) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.--Section 26 (7 U.S.C. 136w-1) (as amended by section 1201(c)) is amended by adding at the end the following:

``(e) EXPIRATION.--Notwithstanding subsections (a) and (b), the primary enforcement responsibility of a State under this Act shall expire on January 1, 1989, unless the Administrator determines that the State has the authority to impose civil and criminal penalties at least equal to those provided in section 14.''.

Amend the table of contents.

FIFRA59

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MR. BEDELL

[Review of Regulations]

Page 122, strike out line 24 and all that follows through line 5 on page 123 and insert in lieu thereof the following:

``(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review--

``(A) in any suspension, cancellation, or denial proceeding under this Act or in any appeal therefrom, or

``(B) in any proceeding under section 13. 14(a), or 16(c) or in any appeal thereform except upon request of a person who, as an agricultural producer, is adversely affected by such action.''.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 12, 1986

(~~Sub~~) Committee: Full

Business Meeting - p.m.

met at 2:05 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 2482, Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986

The following Members were present:

Mr. de la Garza
Mr. Jones (Tenn.)
Mr. Brown
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Coelho
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Hatcher
Mr. Staggers
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Mark Dungan, Minority Associate Counsel
Bernard Brenner, Press Secretary
Timothy J. Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director
Jim Davis, Staff Assistant

Witnesses:

Present to respond to Member's questions.

1. Mr. David Meade, Office of Legislative Counsel, U.S. House of Representatives
2. Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency
3. Mr. Ed Gray, Office of General Counsel, Environmental Protection Agency

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Rodenticide Act Amendments
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Action Taken:

-- Without objection Stenholm amendment providing for stay of application approved.

-- Without objection Evans (Iowa) amendment to Bedell amendment on groundwater agreed to.

-- By voice vote Bedell groundwater amendment, as amended, adopted.

-- Without objection Volkmer technical amendment to his amendment on certification, training, and recordkeeping approved.

-- Without objection report language by Emerson approved.

-- By voice vote Emerson amendment on enforcement officer training to Volkmer amendment adopted.

-- Without objection Stangeland amendment on state records to Volkmer amendment agreed to.

-- By voice vote Volkmer amendment, as amended, approved.

-- By voice vote Stenholm amendment to Marlenee amendment on reimbursement of legal fees not agreed to.

-- By voice vote Roberts amendment to Marlenee amendment approved.

-- By roll call vote 19 yeas-22 nays Marlenee amendment on reimbursement of legal fees, as amended, not agreed to.

-- By voice vote Weaver proposal providing for dioxin study adopted.

-- Without objection Glickman proposal on prevention of pesticide drift withdrawn.

Chairman de la Garza called the meeting to order for the continued consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986. Pending at the conclusion of the morning session was an amendment by Mr. Stenholm which had been amended by a substitute amendment by Mr. Bedell.

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Mr. Stenholm asked if he could offer a further amendment to his amendment which had been amended by the Bedell substitute. The amendment is attached and would provide that an application would be stayed until the Administrator issues a final decision on a petition. Discussion occurred and without objection the proposal was approved.

Mr. Bedell offered the attached amendment on groundwater authority. Discussion occurred.

Mr. Evans (Iowa) stated that he had a substitute amendment to the Bedell amendment which would spell out in more detail the authority contained in the Bedell amendment. Discussion continued and Mr. Bedell advised that he had no objection to the Evans (Iowa) amendment. By a voice vote the Bedell amendment as amended by the Evans (Iowa) groundwater amendment was approved.

Mr. Volkmer offered the attached amendment on certification, training and recordkeeping. In offering his amendment, Mr. Volkmer also offered the attached technical amendment. Discussion occurred and without objection the technical amendment was agreed to.

Mr. Emerson offered the attached amendment on enforcement officer training and report language defining the term "principal part". In addition, Mr. Emerson engaged in a colloquy on reciprocity but did not offer an amendment. He stated he would probably have an amendment on the floor on reciprocity.

Discussion occurred andn without objection the report language was approved for inclusion in the Committee report. Whereupon, the enforcement training proposal was approved by a voice vote.

Mr. Stangeland offered the attached amendment on state records to the Volkmer amendment and discussion occurred. Staff was instructed to put the language in the proper place if the amendment was approved. The Stangeland amendment was adopted without objection. The Volkmer amendment, as amended, was then approved by voice vote.

Mr. Marlenee offered the attached amendment to insure that funds paid in for reregistration are not diminished by lawsuits and legal fees. Discussion occurred.

Mr. Stenholm offered as a substitute for the Marlenee amendment an amendment to strike section (m) and discussion continued. By a voice vote the Stenholm amendment was not agreed to.

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Mr. Roberts suggested adding at the end of the Marlenee amendment the words "for failure to meet deadlines". Objection was heard to Mr. Roberts unanimous consent request to add the phrase whereupon he offered his proposal as an amendment. By a voice vote the amendment was agreed to. The Marlenee amendment, as amended, was then approved by a voice vote. Mr. Brown requested a recorded vote and a sufficient number of Members supported the request. The vote follows:

YEAS

1. Mr. Stenholm
2. Mr. Thomas
3. Mr. Madigan
4. Mr. Jeffords
5. Mr. Marlenee
6. Mr. Stangeland
7. Mr. Roberts
8. Mr. Emerson
9. Mr. Morrison
10. Mr. Gunderson
11. Mr. Evans (Iowa)
12. Mr. Chappie
13. Mr. Franklin
14. Mr. Lewis
15. Mr. Smith
16. Mr. Combest
17. Mr. Schuette
18. Mr. Hopkins (proxy to Mr. Madiga
19. Mr. English

NAYS

1. Mr. Brown
2. Mr. Bedell
3. Mr. Glickman
4. Mr. Hatcher
5. Mr. Staggers
6. Mr. Olin
7. Mr. Stallings
8. Mr. Bruce
9. Mr. Foley (proxy to Mr. de la Garza)
10. Mr. Jones (N.C.)(proxy to de la Garza)
11. Mr. Jones (Tenn.)(proxy to de la Garza)
12. Mr. Rose
13. Mr. Weaver
14. Mr. Panetta
15. Mr. Huckaby (proxy to Mr. Bedell)
16. Mr. Whitley (proxy to Mr. de la Garza)
17. Mr. Coelho (proxy to Mr. de la Garza)
18. Mr. Daschle (proxy to Mr. de la Garza)
19. Mr. Volkmer (proxy to Mr. Bedell
20. Mr. Tallon (proxy to Mr. de la Garza)
21. Mr. Evans (Ill.)(proxy to Mr. Bedell)
22. Mr. Penny (proxy to Mr. Bedell)

Thus, by a roll call vote of 19 yeas-22 nays the Marlenee amendment, as amended, was not agreed to.

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Mr. Weaver offered the attached amendment providing for a dioxin study. Discussion occurred and by a voice vote the proposal was approved.

Mr. Glickman offered the attached amendment on prevention of pesticide drift. Discussion occurred and without objection Mr. Glickman withdrew the amendment for perfecting.

At 4:40 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Tuesday, June 17, for further consideration of amendments to H.R. 2482 (FIFRA).

Glenda Temple

Glenda Temple

Stenholm #6

(Review of Regulations)

Insert at the end of the Bedell Amendment the following:

"(3) If an adversely affected person petitions to modify or rescind a regulation under paragraph (1), the application of such regulation to such person shall be stayed until the Adminstrator issues a final decision on the petition."

Bedell

FIFRA63

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Groundwater]

Page 124, strike out line 21 and all that follows through line 25 on page 136 and insert in lieu thereof the following:

SEC. 2501. GROUNDWATER AUTHORITY.

The Act (as amended by section 601) is amended by adding after section 31 the following:

``**SEC. 32. GROUNDWATER AUTHORITY.**

``(a) IN GENERAL.--The Administrator shall, as appropriate and necessary, use the authorities under this Act to provide for the protection of groundwater against contamination by pesticides.

``(b) CONSULATION.--In carrying out subsection (a), the Administrator shall consult with the States regarding appropriate means for monitoring and controlling pesticide contamination in groundwater.''.

Amendment To Committee Print of H.R. 2482

Offered by Mr. Evans (Ia)

[Groundwater]

Page 124, strike out line 21 and all that follows through line 25 on page 136 and insert in lieu thereof the following:

SEC. 2501. GROUNDWATER AUTHORITY

The Act (as amended by section 601) is amended by addition after section 31 the following:

SEC. 32. GROUNDWATER AUTHORITY.

"(a) IN GENERAL -- The Administrator shall, as appropriate and necessary, use the authorities under this Act to provide for protection of drinking water and groundwater against contamination by pesticides.

(b) USE OF OTHER AUTHORITIES -- In carrying out the provisions of subsection (a), the Administrator shall, whenever available, use maximum contaminant levels established under the Safe Drinking Water Act as groundwater residue guidance levels for the purposes of this section.

(c) CONSULTATION WITH STATES -- In carrying out subsection (a), the Administrator shall consult with, and take into account the views of, the States on:

(1) the distinction between drinking water, shallow groundwater which is not a potential source of drinking water, and groundwater that is a potential source of drinking water;

(2) degradation of pesticides in groundwater; and

(3) appropriate means for responding to and preventing pesticide contamination of drinking water and groundwater.

(d) CONSULTATION WITH SECRETARY OF AGRICULTURE -- In carrying out subsections (a) and (c), the Administrator shall consult with the Secretary of Agriculture.".

FIFRA36

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. VOLKMER

Page 97, strike out line 17 and all that follows through line 13 on page 108 and insert in lieu thereof the following:

TITLE XII--CERTIFICATION, TRAINING, AND RECORDKEEPING AMENDMENTS

SEC. 1201. CERTIFICATION, TRAINING, AND RECORDKEEPING FOR PESTICIDE APPLICATORS.

(a) DEFINITIONS.--

(1) Section 2(e) (7 U.S.C. 136(d)) is amended to read as follows:

``(e) APPLICATOR.--

``(1) COMMERCIAL APPLICATOR.--

``(A) Except as provided in subparagraph (B), the term `commercial applicator' means a person (whether or not the person is a private applicator with respect to some uses) who--

``(i) uses or supervises the use, for any purpose or on any property, of any pesticide that is classified for restricted use,

``(ii) uses or supervises the use of any pesticide for hire as the principal part of the person's business or work, or ``(iii) as an employee of a person described in clause (ii) uses or supervises the use of any pesticide.

``(B) The term does not include a person who uses or supervises the use of a pesticide as described in paragraph (2).

``(2) PRIVATE APPLICATOR.--The term `private applicator' means a person who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity--

``(A) on property owned or rented by such person or such person's employer, or

``(B) on other property if applied without compensation (other than trading of personal services between producers of agricultural commodities).

``(3) CERTIFIED APPLICATOR.--The term `certified applicator' means a commercial or private applicator who is certified under section 4.

``(4) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.--Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a person acting under the direct supervision and the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used.''.

(2) Section 2 (as amended by section 1002) is amended by adding at the end the following:

''(jj) PESTICIDE DEALER.--

''(1) Except as provided in paragraph (2), the term 'pesticide dealer' means any person who, in the ordinary course of business, distributes or sells pesticides classified for restricted use or designated under section 8(d).

''(2) Such term does not include a person who only distributes or sells pesticides that are classified for general use and that are not designated under section 8(d).''.

(b) SECTION 4.--

(1) Section 4 (7 U.S.C. 136b) is amended by adding at the end the following:

''(d) PROVISIONS REGARDING COMMERCIAL APPLICATORS.--

''(1) It shall be a violation of this Act for any person to use any pesticide as a commercial applicator unless such person is--

''(A) a certified commercial applicator, or

''(B) a registered commercial applicator under the direct supervision of a certified applicator who is a certified commercial applicator.

``(2) In order to be considered to be a certified commercial applicator, a person shall, at a minimum--

``(A) have met the standards prescribed under subsection (a) and have received training--

``(i) prescribed by the State agency, including training in the material referred to in subsection (g),

``(ii) conducted by a trainer who has met the requirements prescribed under subsection (h), and

``(iii) that satisfies the minimum standards for training programs prescribed under subsection (h),

``(B) have had field, institutional, or industrial experience in pesticide use and application,

``(C) have passed an examination prescribed by such State agency, and

``(D) possess a valid commercial applicator certification issued by such State agency.

``(3) In order to be considered to be a registered commercial applicator, a person shall, at a minimum--

``(A) have received training--

``(i) prescribed by the State agency, including training in the material referred to in subsection (g), and ``(ii) conducted by a trainer who has met the requirements prescribed under subsection (h), and

``(B) possess a valid registration issued by such State agency.

A person may obtain a registration by providing to the State agency a report, signed and dated by the trainer and by the person who received the training, stating that the prescribed minimum training has been provided and received.

``(e) PROVISIONS REGARDING PRIVATE APPLICATORS.--

``(1) A restricted use pesticide shall be considered to have been applied by a private applicator only if it is applied by a person who is either--

``(A) a certified private applicator, or

``(B) a supervised private applicator who uses a pesticide under the direct supervision of a certified private applicator.

``(2) In order to be considered to be a certified private applicator, a person shall, at a minimum--

``(A) have met the standards prescribed under subsection (a) and have received training--

``(i) prescribed by the State agency, including training in the material described in subsection (g),

``(ii) conducted by a trainer who has met the requirements prescribed under subsection (h), and

``(iii) that satisfies the minimum standards for training prescribed under subsection (h), and

``(B) possess a valid private applicator certification issued by such State agency.

``(3) In order to be considered to be a supervised private applicator, a person shall, at a minimum, have received basic instruction--

``(A) prescribed by the State agency or based on material prescribed by such State agency, including basic instruction material concerning the use of appropriate pesticide application and safety procedures, appropriate clothing and protective equipment for pesticide applications, the detection of common symptoms or pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment and the requirements of applicable laws, regulations, and labeling, and

``(B) given by a certified private applicator, a commercial applicator who is certified in the pest control category appropriate for the instruction the applicator is providing, or a trainer who has met the requirements prescribed under subsection (h).

The designated State agency may require the employer of a supervised private applicator to verify that the basic instruction described in subparagraph (A) has been received.

``(f) RECERTIFICATION AND REREGISTRATION.--Each certified applicator and each registered commercial applicator within a State shall undergo refresher training and be recertified or reregistered within the period established by the State agency of such State. Such period may not be more than 5 years. The refresher training shall be prescribed by the State agency and shall include training in the materials referred to in subsection (g) and in the relevant requirements of this section and sections 3(d), 12, and 14. To be recertified, an applicator shall, at a minimum, meet the requirements of paragraphs (1), (2)(A), (2)(B), and (2)(D) of subsection (d) or the requirements of paragraphs (1) and (2) of subsection (e). To be reregistered, a commercial applicator shall, at a minimum, meet the requirements of subsection (d)(3).

``(g) TRAINING MATERIAL.--The Administrator, in consultation with the Secretary of Agriculture, shall develop material on the use of appropriate procedures for the application of pesticides, safety procedures for pesticide application, clothing and protective equipment for pesticide application, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, specific commercial application categories, and the requirements of applicable laws, regulations, and labeling. Within 12 months of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator, in consultation with the Secretary of Agriculture, shall revise and make current such material and thereafter shall update such material as needed.

``(h) MINIMUM STANDARDS FOR TRAINERS AND TRAINING PROGRAMS.--

``(1)(A) The Administrator shall establish within one year of the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986--

``(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (d), and

``(ii) minimum standards for the training programs referred to in such subsection (d).

``(B) Training programs prescribed by any State pursuant to subsection (d) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of such standards. If upon the expiration of such 2-year period a State's training program fails to meet such minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of such failure. After receipt of such a notice, a State shall have 90 days to bring its training program into compliance with such standards. If upon expiration of such 90-day period, the State's training program does not meet such standards the Administrator shall prescribe such training programs referred to in subsection (d) for use in such State.

``(2)(A) The Adminstrator shall establish within 2 years after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986--

``(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (e), and

``(ii) minimum standards for the training programs referred to in subsection (e).

``(B) Training programs prescribed by any State pursuant to subsection (e) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of such standards. If upon the expiration of such 2-year period a State's training program fails to meet such minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of such failure. After receipt of such a notice, a State shall have 90 days to bring its training program into compliance with such standards. If upon expiration of such 90-day period the State's training program does not meet such standards, the Administrator shall prescribe the training programs referred to in subsection (e) for use in such State.

``(i) PRIVATELY ADMINISTERED TRAINING PROGRAMS.--A State agency may approve any privately administered training program that it determines meets--

``(1) the requirements established under this section, or

``(2) requirements established by the State agency,

whichever are more stringent.

``(j) SEPARATE STANDARDS.--In establishing standards under this section applicable to applicators, the Administrator shall establish separate standards for commercial applicators and private applicators.

``(k) STATE AGENCY DEFINED.--For purposes of this section, the term `State agency' means the agency of a State that is designated under subsection (a)(2)(A) if the State has primary enforcement responsibility for pesticide use violations as prescribed by section 26. In the case of a State that does not have such primary enforcement responsibility or that does not have an agency designated under subsection (a)(2)(A), a reference to a State agency shall be considered a reference to the Administrator.''.

(2)(A)(i) Except as provided in clauses (ii) and (iii), subsection (d) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by paragraph (1)) shall take effect in a State upon the expiration of the period prescribed by subsection (h) of such section 4 within which training programs of such State under such subsection (d) are to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(ii) If an applicator in a State is certified as a commercial applicator under subsection (a) before the effective date prescribed by clause (i) and the Administrator has determined that the previous certification or re-certification requirements in that State do not conform to the requirements of subsecion (d) of such section 4, such applicator shall be recertified--

(I) within 2 years of the date the training programs of such State under subsection (d) of such section 4 comply with such minimum standards of the Administrator, or

(II) within such earlier time as such State may prescribe.

(iii) The requirements of subsection (d) of such section 4 for registered commercial applicators shall take effect 1 year after the expiration of the period prescribed by subsection (h) of such section 4 within which training programs of such State under such subsection (d) are to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(B)(i) Except as provided in clauses (ii) and (iii), subsection (e) of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by paragraph (1)) shall take effect in a State upon the expiration of the period prescribed by subsection (h) of such section 4 within which training programs of such State under paragraph (2) of such subsection (e) are to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(ii) If an applicator in a State is certified as a private applicator under subsection (a) before the effective date prescribed by clause (i) and the Administrator has determined that the previous certification or re-certification requirements in that State do not conform to the requirements of subsecion (d) of such section 4, such applicator shall be recertified--

(I) within 2 years of the date the training programs of such State under subsection (e)(2) of such section 4 comply with such minimum standards of the Administrator, or

(II) within such earlier time as such State may prescribe.

(iii) The requirements of subsection (e) of such section 4 for supervised private applicators shall take effect 1 year after the expiration of the period prescribed by subsection (h) of such section 4 within which training programs of such State under such subsection (e) are to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(e) SECTION 8.--Section 8 (7 U.S.C. 136f) (as amended by section 802) is amended by adding at the end the following:

``(c) RECORDS OF APPLICATORS.--

``(1) COMMERCIAL APPLICATORS.--The Administrator shall require each commercial applicator to maintain records of each pesticide application, including the identity and amount of pesticide applied and the date and location of such application, for a period of 2 years after each such application.

``(2) PRIVATE APPLICATORS.--Except as provided by section (4)(e), no regulations prescribed by the Administrator for carrying out this Act may require any private applicator to maintain any records or file any reports or other documents.

``(d) RECORDS OF PESTICIDE DEALERS.--The Administrator shall by regulation require each pesticide dealer to maintain a record of each sale or distribution of--

``(1) a pesticide classified for restricted use, and

``(2) any other pesticide designated for purposes of this subsection by the Administrator by regulation because the pesticide may cause [redacted] adverse effects on health or the environment.

Such records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of distribution or sale. A pesticide dealer shall maintain the records required under this subsection for 3 years after the date of the distribution or sale.

``(e) ACCESS TO RECORDS REQUIRED UNDER SUBSECTIONS (c) AND (d).--

``(1)(A) Any pesticide dealer or commercial applicator shall afford to any employee or former employee of such dealer or applicator access to records required to be kept under subsections (c) and (d) that directly relate to the employee's employment duties.

``(B) Any pesticide dealer or commercial applicator shall afford to any customer of such dealer or applicator access to the records that directly relate to any pesticide that the customer purchased from the dealer or that relate to any pesticide application made by such an applicator at the request of the customer or pursuant to a contract with a customer.

``(C) State enforcement agencies shall obtain and make available, upon reasonable request, records required to be kept under subsections (c) and (d) relating to any pesticide application or sale to any person who has a reasonable basis to believe that the person may have been directly and adversely affected by any such pesticide.

``(D) The records for which access is provided under subparagraph (A), (B), or (C) shall be accessible within 30 days of a request made under such subparagraph, except that if necessary to protect the public health and in medical emergencies, such records shall be provided immediately, but no later than 24 hours after the request is made.

``(2) An employer who uses or supervises the use of a pesticide shall know or have access to the brand name and common or chemical name of the pesticide and to the safety, first aid, and antidote information listed on the labeling of any such pesticide and shall be responsible for promptly making such information available, upon request, to any employee exposed to a pesticide and to treating medical personnel.

``(3) A copy of any record to be required to be maintained under subsection (c) or (d) shall be furnished to a State agency that has primary enforcement authority under section 26 upon request by such State agency to the commercial applicator or dealer required to maintain such records.

``(f) ENFORCEMENT.--The Administrator or the State agency designated under section 4(a)(2)(A), whichever has primary enforcement responsibility under section 26, shall enforce the requirements of subsections (c), (d), and (e).''.

(d) SECTION 12.--Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by striking out ``or'' at the end of paragraph (2)(O), by striking out the period at the end of paragraph (2)(P) and inserting in lieu thereof a semicolon, and by adding after subparagraph (P) the following:

``(Q) to obtain and to use records acquired under section 8(e) in furtherance of a commercial purpose;''.

Page 80, line 19, strike out ``The'' and insert in lieu thereof ``Except as provided in subsections (c), (d), and (e), the''.

Page 110, strike out lines 1 through 3.

Page 146, after line 7, in the items relating to section 2(e), strike out the items relating to paragraphs (4) and (5) and redesignate paragraph (6) as paragraph (4).

Page 148, after line 2, strike out the items relating to section 4 and insert in lieu thereof the following:4

``(d) Provisions regarding commercial applicators.

``(e) Provisions regarding private applicators.

``(f) Recertification and reregistration.

``(g) Training material.

``(h) Minimum standards for trainers and training programs.

``(i) Privately administered training programs.

``(j) Authority of State agencies.

``(k) Separate standards.

``(l) State agency defined..''.

Page 149, after line 4, insert at the end of the items relating to section 8 the following:

``(c) Records of commerical applicators.
``(d) Records of pesticide dealers.
``(e) Access to records required under subsections (c) and (d).
``(f) Enforcement.''.

Page 149, strike out lines 11 and 12 and the items relating to section 11 and insert in lieu thereof the following:

(17) by striking out the items relating to section 11.

AMENDMENT TO THE VOLKMER AMENDMENT
[Private Applicators]

PAGE 7 line 1 Delete "verify" and insert in lieu thereof "confirm"; and

PAGE 13 line 25 through PAGE 14 line 1

Delete "Except as provided by section (4)(e), no" and insert in lieu thereof "No".

AMENDMENT BY MR. EMERSON

ENFORCEMENT OFFICER TRAINING

Insert in the appropriate place in Section 4 a new subsection.

() ENFORCEMENT OFFICER TRAINING - Federal and state field personnel responsible for on-site observations and inspections of pesticide use shall have training that, as minimum, includes the training specified in section 4(i) for the application categories for which they are assigned enforcement responsibility.

REPORT LANGUAGE PROPOSED BY MR. EMERSON

TO BE INCLUDED IN SECTION XII

In defining the term "principal part" in (ii), it is the intent of the Congress that the Administrator exclude from the commercial applicator category persons engaging in the occasional use of pesticides, but include those persons who use pesticides with such regularity and frequency as to pose a potential threat to public health, the environment, or themselves without the training required of commercial applicators.

FIFRA64

Stangeland

AMENDMENT TO THE VOLKMER AMENDMENT

[State Records]

On page 15, strike out lines 9 through 14 and insert in lieu thereof the following:

``(C) State enforcement agencies, as part of the course of an investigation or enforcement action and in response to a formal complaint, shall make available a report of the findings of such investigation or action to the complainant. Upon the request of a complainant, such agencies shall provide in a timely manner a progress report or interim report that contains, at a minimum, the records required to be kept under subsections (c) and (d) and obtained in the investigation or action.

Amendment to Committee Print of H.R. 2482

Offered by Mr. Marlenee

Page 43, line 3, insert after "section 16." the following new sentence:

"Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section."

Roberts

Amendment to Committee Print of H.R. 2482

Offered by Mr. Marlenee

Page 43, line 3, insert after "section 16." the following new sentence:

"Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines Ⓡ

WEAVER158

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MR. WEAVER

[Dioxin Study]

Page 139, insert after line 6 the following:

SEC. 2705. DIOXIN STUDY.

The Administrator of the Environmental Protection Agency shall collect and analyze samples of human breast milk for residues of isomers of chlorinated dioxins and dibenzofurans. Not later than 2 years after the date of the enactment of this Act, the Administrator shall report to the Congress the findings from the analysis of such samples.

Glickman

AN AMENDMENT TO THE COMMITTEE PRINT OF HR 2482

[PREVENTION OF PESTICIDE DRIFT]

The Committee Print of HR 2482 is amended by --

a) On page 136, after line 25 inserting the following:

"TITLE XXVI -- PESTICIDE DRIFT

"SEC. 2601. AUTHORITY OF THE ADMINISTRATOR.

The Act (as amended by section 2502) is amended by adding at the end the following:

"SEC. 34. PESTICIDE DRIFT.

"The Administrator shall promulgate regulations, after consultation with appropriate federal agencies, which establish appropriate application techniques and restrictions to control pesticide drift, such as appropriate site restrictions that take into account the areas which may be affected by the pesticide."

b) On page 49, line 21, strike "34" and insert in lieu thereof "35", on page 137, lines 4 and 7, strike out "34" and insert in lieu thereof "35" and on page 152, strike out "34" and insert in lieu thereof "35".

c) Titles XXVI through XXX and the sections of such titles are redesignated accordingly and the table of contents of the bill and Act are amended to reflect the amendment.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 17, 1986

~~(Sub)~~ Committee: Full

Business Meeting

met at 2:15 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones (Tenn.)
Mr. Brown
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher

Mr. Tallon
Mr. Evans (Ill.)
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Smith
Mr. Combest
Mr. Schuette
Mr.
Mr.
Mr.
Mr.

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Tim Galvin, Subcommittee Staff Director
Gary R. Mitchell, Minority Consultant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present to respond to Member's questions:

1. Mr. David Meade, Office of Legislative Counsel, U.S. House of Representatives
2. Ms. Susan Sherman, Deputy Director, Office of Pesticide Programs, Environmental Protection Agency
3. Mr. Ed Gray, Office of General Counsel, Environmental Protection Agency

Tuesday, June 17, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Action Taken:

-- Without objection Morrison report language on lack of essentiality agreed to.

-- By voice Glickman study of pesticide drift amendment approved.

-- By voice vote Roberts amendment adding one year to Bedell amendment authorizing appropriations adopted.

-- By voice vote Bedell amendment, as amended, authorizing appropriations agreed to.

-- Without objection Roberts report language on inert ingredients approved.

-- By voice vote Glickman amendment on inert ingredients adopted.

-- By voice vote Madigan amendment providing for report by Comptroller General agreed to.

-- Without objection Stenholm revised language on label changes agreed to.

-- By voice vote Bedell amendment on fee apportionment approved.

Acting Chairman Foley called the meeting to order for the purpose of continuing consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986.

Mr. Morrison was recognized to offer and explain the attached report language to accompany his previously-adopted amendment on lack of essentiality. Discussion occurred and without objection the language was agreed to.

Mr. Rose asked permission to postpone consideration of the data compensation amendment until Wednesday, June 18, to enable Members who had amendments on the subject to be present and there was no objection.

Mr. Glickman offered the attached amendment providing for a study of pesticide drift. Discussion occurred and by a voice vote the proposal was agreed to.

Tuesday, June 17, 1986
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Mr. Bedell offered the attached amendment providing for authorization of appropriations to carry out the Act through fiscal year 1990. Discussion occurred.

Mr. Roberts offered an amendment to the Bedell amendment to extend the authorization for appropriations through fiscal year 1991. Discussion continued and by a voice vote the Roberts amendment to the Bedell amendment was approved. The Bedell amendment, as amended, was then approved by a voice vote.

Mr. Glickman offered and explained the attached amendment dealing with inert ingredients. Discussion occurred. Mr. Roberts suggested the attached report language to accompany the Glickman amendment and discussion continued. Without objection the report language was approved for inclusion in the Committee report; whereupon the Glickman amendment was adopted by a voice vote.

Mr. Madigan offered and explained the attached amendment providing for a report by the Comptroller General. Discussion occurred and by a voice vote the proposal was approved.

Mr. Stenholm advised that he had revised language on a previously adopted proposal on label changes. Discussion occurred and without objection the revised language was agreed to.

Mr. Jeffords advised that he had been negotiating with the Departmnet of Labor and EPA and agreement had been reached with regard to pesticides in work areas. He stated the actual language would be ready for the Wednesday meeting and asked that his rights be protected to offer the proposal at that time. There was no objection.

Mr. Bedell offered the attached proposal on fee apportionment and discussion occurred. By a voice vote the Bedell proposal was adopted.

The rights of Mr. Stangeland and Mr. Roberts were protected to offer amendments at the Wednesday meeting. Chairman de la Garza discussed user fees with regard to FIFRA.

During the proceedings recesses were taken at 3:00 and 4:25 p.m. to enable Members to respond to recorded votes on the House floor. At 4:55 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Wednesday, June 18, to conclude consideration of the bill.

Glenda Temple
Glenda Temple

Report Language offered by Mr. Morrison

Lack of Essentiality

Lack of essentiality is a term applied to a regulatory criterion for denying approval for a pesticide merely because an alternative is available. Congress barred EPA from using "lack of essentiality" as a criterion in denying registration of pesticides when FIFRA was amended in 1972 (cf. Section 3(c)(5)). Prohibiting use of "lack of essentiality" as the sole criterion is justified for several compelling reasons:

1) It precludes government-sanctioned monopolies that would exist if only one pesticide can be approved for a particular purpose.

2) It allows use of alternative pesticides to avoid or overcome the development of resistance by pests.

3) It encourages development of new alternative pesticides.

4) It allows use of alternative pesticides which remain safe when foods are processed.

Some states apply or are threatening to apply a criterion of lack of essentiality in regulating pesticides. For example, in Texas in the late 1970's, food processors ran into a problem when the state refused registration based on lack of essentiality for a pesticide which was safe for use on spinach to be processed. The Food and Drug Administration discovered that the pesticide approved for use by the state was unsafe for processing operations since it broke down during heating into possible carcinogens. The problem was eventually resolved but not during that particular growing season.

It is the sense of the Committee that the reasons for denying lack of essentiality at the federal level are equally valid at the state level, and the Committee urges the states to take these reasons into consideration.

AN AMENDMENT TO THE COMMITTEE PRINT OF HR 2482

[PREVENTION OF PESTICIDE DRIFT]

On page 136, after line 25 inserting the following:

"TITLE XXVI -- PESTICIDE DRIFT

"SEC. 2601. AUTHORITY OF THE ADMINISTRATOR.

The Act (as amended by section 2502) is amended by adding at the end the following:

"SEC. 34. PESTICIDE DRIFT.

"The Administrator shall, within two years of the date of enactment of the Federal Insectcide, Fungicide, and Rodenticide Act of 1986, provide a report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Forestry, and Nutrition of the Senate on the incidence and potential adverse effects on human health and the environment of the unconsented drift of pesticides from the site of application at the time of application."

On page 49, line 21, strike "34" and insert in lieu thereof "35", on page 137, lines 4 and 7, strike out "34" and insert in lieu thereof "35" and on page 152, strike out "34" and insert in lieu thereof "35".

Titles XXVI through XXX and the sections of such titles are redesignated accordingly and the table of contents of the bill and Act are amended to reflect the amendment.

FIFRA49

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BEDELL

[Authorizations of Appropriations]

Page 137, strike out lines 7 through 12 and insert in lieu thereof the following:

``**SEC. 34. AUTHORIZATION FOR APPROPRIATIONS.**

``There is authorized to be appropriated to carry out this Act (other than sections 23 and 31) $78,363,500 for fiscal year 1987, of which not more than $13,735,500 whall be available for research under this Act, $87,414,200 for fiscal year 1988, of which not more than $14,343,600 whall be available for research under this Act, $91,673,400 for fiscal year 1989, of which not more than $14,978,200 whall be available for research under this Act, and $98,305,800 for fiscal year 1990, of which not more than $15,625,900 whall be available for research under this Act.''.

FIFRA62

AMENDMENT TO THE BEDELL AMENDMENT

OFFERED BY MR. ROBERTS

Add to the authorizations the following: ``$106,803,700 for fiscal year 1991, of which not more than $16,300,100 shall be available for research under this Act''.

FIFRA33

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. GLICKMAN

[Inert Ingredients]

Page 44, strike out lines 12 through 21 and insert in lieu thereof the following:

(b) PRIORITY LIST AND DATA REQUIREMENTS.--Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

``(g) PRIORITY LIST AND DATA REQUIREMENTS FOR INERT INGREDIENTS.--

``(1) ESTABLISHMENT OF LIST.--Subject to paragraph (4), the Administrator shall establish a priority list of inert ingredients consisting of--

``(A) inert ingredients that appear to cause a pesticide to meet or exceed a criterion for initiating a public interim administrative review under subsection (c)(8);

``(B) inert ingredients (i) for which additional data are reasonably necessary to assess the risk of whether the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment, (ii) that are similar in molecular structure to a chemical that is oncogenic, mutagenic, or teratogenic or causes another similarly significant adverse effect, and (iii) that have significant use in pesticides or to which there is significant exposure from pesticides; and

``(C) inert ingredients for which additional data are reasonably necessary to assess the risk of whether the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment and to which there is significant exposure from pesticides.

``(2) PUBLICATION OF LIST.--Not later than 90 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually.

``(3) JUDICIAL REVIEW.--The priority list under paragraph (1), the inclusion or exclusion of an ingredient on or from the priority list, and any revision of the priority list shall not be subject to judicial review.

``(4) NUMBER OF INGREDIENTS.--The priority list under paragraph (1) shall consist of not less than 50 inert ingredients unless the Administrator determines that there is not a sufficient number of inert ingredients meeting the requirements for listing under paragraph (1) to reach such minimum number. Such list may not exceed 75 inert ingredients.

``(5) ADDITIONAL DATA.--

``(A) The Administrator shall determine whether additional data are required for an inert ingredient in a registered pesticide not later than 1 year after the inert ingredient is placed on the priority list under paragraph (1). The Administrator shall request such data from each registrant of such pesticide pursuant to this Act or from producers of the inert ingredient pursuant to the Toxic Substances Control Act. Such data shall be submitted within a reasonable time but not later than 4 years after the date of the request. The Administrator may extend the period for the submission of data by not more than 2 years if extraordinary circumstances beyond the control of the registrant or producer prevent the submission of the necessary data.

``(B) Data requirements imposed under subparagraph (A) or a decision not to require data for an inert ingredient shall be subject to judicial review under section 16(b).

``(6) EVALUATION.--On receipt of additional data under paragraph (5) for an inert ingredient, the

Administrator shall, within 1 year of the receipt of such data, evaluate the data and take such steps as are appropriate to prevent unreasonable adverse effects on the environment of pesticides containing such inert ingredient. Under exceptional circumstances, the Administrator may extend the period for evaluation by not more than 1 year.

``(7) CONSTRUCTION.--This subsection shall not be construed as affecting the authority of the Administrator--

``(A) to regulate under this Act impurities, contaminants, degradants, or other ingredients of pesticides that have not been deliberately added to the pesticides,

``(B) to regulate under this Act any deliberate added inert ingredient that has not previously been used in a pesticide or a significant new use in a pesticide of a deliberately added inert ingredient,

``(C) to require the submission of short-term, environmental fate, or residue studies for intentionally-added inert ingredients, or

``(D) to require the submission of revised formula statements under subsection (c)(2)(B).''.

(c) DATA COMPENSATION.--Section 3(c)(1)(D)(ii) (7 U.S.C. 136a(c)(1)(D)(ii)) is amended--

(1) by striking out ``or for reregistration'' and inserting in lieu thereof ``for reregistration, or to support the safety of an inert ingredient'', and

(2) by inserting ``or in support of the safety of an inert ingredient'' before ``by any other person''.

Page 45, line 20, strike out the period and the close quotation marks and the period following and insert in lieu thereof ``; and'' and insert after line 20 the following:

``(5) the name of any inert ingredient for which the Administrator has required additional data under section 3(g)(5) for an inert ingredient listed under section 3(g)(1)(A) because it appears to cause a pesticide to meet or exceed a criterion for initiating a public interim administrative review under subsection (c)(8).''.

Page 46, insert after line 2 the following:

SEC. 404. COMPENSATION FOR DATA ON INERT INGREDIENTS.

Subparagraph (D) of section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended to read as follows:

``(D) EXEMPTION.--

``(i) No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into a product shall be required to--

``(I) submit or cite data pertaining to the safety of such purchased product; or

``(II) offer to pay reasonable compensation otherwise required by paragraph (1)(D) for the use of any such data.

``(ii) No applicant for registration of a pesticide who proposes to purchase an inert ingredient from another person in order to formulate the pesticide shall be required to offer to pay reasonable compensation otherwise required by paragraph (1)(D) for a study concerning such ingredient if any portion of the cost of the study will be or could be included in the price of the purchased ingredient.''.

Page 147, strike out lines 3 and 4 and insert in lieu thereof the following:

(7) by amending the item relating to section 3(g) to read as follows:

``(g) Priority list and data development statements for inert ingredients.

"(1) Establishment of list.
"(2) Publication of list.
"(3) Judicial review.
"(4) Number of ingredients.
"(5) Additional data.
"(6) Evaluation
"(7) Data development statements.
"(8) Construction.".

Roberts

REPORT LANGUAGE TO ACCOMPANY TITLE IV OF H.R. 2482

[Inert Ingredients]

With respect to new subparagraph 3(g)(7)(A), concerning the construction of subsection (g), the Committee intends that subsection (g) be construed in a manner which does not affect the authority of the Administrator to regulate not deliberately added ingredients of pesticides. More specifically, it is the Committee's intent that the Administrator remain free to regulate ingredients that are not deliberately added pursuant to whatever authorities are available. Thus, the presence of any particular ingredient on the list set forth in paragraph (1), should not be a basis for the Administrator not proceeding under other authorities. By the same token, however, the Committee intends that the Administrator exercise sound judgment in deciding whether to proceed under the list procedure or under existing other authorities. In this fashion, the Committee expects the Administrator to weigh the regulatory options available and choose those most consistent with the objectives of this legislation while accommodating the reasonable concerns of registrants about unnecessarily duplicative approaches.

Amendment to the Committee Print of H.R. 2482
Offered by Mr. Madigan

Page 121, after line 18, insert the following new section:

Sec. 2102. The Act is amended by inserting after section 29 (7 U.S.C. 136a) the following new section:

"Sec. 29A Comptroller General's Report

(a) The Comptroller General shall conduct an evaluation of the programs and activities authorized under the 1986 amendments to this Act and shall make a final report to the Congress no later than December 31, 1988. The Comptroller General shall include in such evaluation the effect that this Act, as amended, is having on the cost and availability of pesticides to farmers as well as other producers of food and fiber. Such evaluation shall include an analysis of the reregistration programs and any program conducted by the Environmental Protection Agency under this Act relating to groundwater.

(b) For purpose of conducting program evaluations required in subsection (a) of this section, the Comptroller General or his duly authorized representatives shall have access to and the right to examine all documents, papers, records, data, pesticide study documentation, or other recorded information within the possession or control of the Environmental Protection Agency or within the possession or control of pesticide registrants subject to the regulation of the Environmental Protection Agency. The Comptroller General or his representatives shall be subject to the same restrictions regarding the disclosure of trade secret information under this Act as are the employees of the Environmental Protection Agency."

FIFRA74

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. STENHOLM

Page 69, strike out line 3 and all that follows through line 8 on page 72 and insert in lieu thereof the following:

``(4) LABEL CHANGES.--

``(A) The Administrator may require changes to the label of a pesticide by informal rulemaking under this paragraph unless the changes--

``(i) are equivalent to a cancellation of a use,

``(ii) render the product unmarketable, or

``(iii) otherwise have a major economic impact on persons affected by such changes,

in which case the changes shall be subject to the hearing procedures provided in this section.

``(B) The Administrator shall notify the registrant of a pesticide of a label change proposed by the Administrator under subparagraph (A) and provide that the registrant may submit comments to the Administrator on such proposed change in the 30-day period beginning on the date of the receipt of such notice. If a registrant who is notified by the Administrator of a proposed label change notifies the

Administrator that the registrant does not object to such change, such change shall take effect as prescribed by the Administrator. If a registrant who is notified by the Administrator of a proposed label change does not submit comments to the Administrator in such 30-day period, the Administrator shall send such registrant a notice stating that if such registrant does not submit any comments to the Administrator in the 30-day period beginning on the date the registrant receives the second notice, the registration of such registrant shall be cancelled by operation of law. The registration of a registrant who does not respond to a second notice within such 30-day period shall be cancelled by operation of law. If a registrant submits an objection to the Administrator in response to a notice under this subparagraph, the Administrator may proceed under subparagraph (C).

``(C) Within 60 days after the promulgation of a regulation under subparagraph (A), the Administrator shall notify each registrant of the pesticide subject to the regulation of the label required by the regulation and provide an opportunity for each registrant to apply to the Administrator for an amendment to the registration to comply with the regulation. If a registrant does not apply for such an amendment within the prescribed 30-day period, the Administrator shall issue a notice of intent to cancel the registration of such registrant. A registrant may request a hearing under subsection (d) on such notice. A user of a pesticide subject to such regulation may also request such a hearing. The scope of the hearing shall be limited to--

``(i) whether the pesticide complies with the regulation;

``(ii) whether the regulation by its terms is applicable to such pesticide; and

``(iii) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was promulgated, it would be unreasonable to require such pesticide to comply with the regulation.

``(D)(i) Except as provided in clause (ii), in an action under 16(e) for review of a regulation issued under subparagraph (A), the court shall, upon request, postpone the effective date of the regulation until completion of the review action if the petitioner shows--

``(I) a likelihood of success on the merits in such action, and

``(II) that the implementation of the regulation before completion of the action would cause a risk of substantial harm to the petitioner.

``(ii) A court in a review action under section 16(e) shall not postpone the effective date of a regulation issued under subparagraph (A) if the Adminstrator shows that failure to implement the regulation before completion of the action would cause a risk of substantial harm to health or the environment.''.

AMENDMENT BY MR. BEDELL

(Fee Apportionment)

Page 41, insert after the matter on line 20 the following:

"The Administrator may by order require registrants to submit such reports as the Administrator determines to be necessary to allow the Administrator to apportion fees under this subsection. If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection for a particular active ingredient is not paid by a registrant to the Administrator by the time prescribed in paragraph (1) or (2), the Administrator may by order and without hearing cancel each registration of a pesticide product containing that active ingredient held by that registrant. The Administrator shall then reapportion the fee among the remaining registrants and require such registrants to pay to the Administrator any unpaid balance of the fee."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 18, 1986

(~~Sub~~) Committee: Full

Business Meeting

met at 10:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments

The following Members were present:

Mr. de la Garza
Mr. Foley
Mr. Jones (Tenn.)
Mr. Brown
Mr. Rose
Mr. Weaver
Mr. Bedell
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Whitley
Mr. Daschle
Mr. Stenholm
Mr. Volkmer

Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Thomas
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Jeffords
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Evans (Iowa)
Mr. Chappie
Mr. Franklin
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette

Staff Present:
Phillip L. Fraas, Counsel
John E. Hogan, Minority Counsel
Charles Rawls, Associate Counsel
Bernard Brenner, Press Secretary
Tim Galvin, Subcommittee Staff Director
Gary Mitchell, Minority Consultant
Glenda Temple, Clerk
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

Present to respond to Member's questions:

1. Mr. David Meade, Office of Legislative Counsel, U.S. House of Representatives
2. Ms. Susan Sherman, Deputy Director, Office of Pesticide Programs, EPA
3. Mr. Ed Gray, Office of General Counsel, EPA

Wednesday, June 18, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Action Taken:

-- By voice vote Jeffords amendment on worker protection agreed to.

-- Without objection Jeffords report language on worker protection adopted.

-- By roll call vote 20 yeas-21 nays Stangeland amendment on initial fee requirement not approved.

-- By show of hands vote of 9 yeas-10 nays Stangeland amendment providing that fee required to be collected may be one-third not agreed to.

-- By voice vote Evans (Iowa) survey amendment adopted.

-- By voice vote Brown amendment on cost sharing agreed to.

-- Without objection Huckaby reformed his amendment to the Rose substitute amendment to the Brown amendment on data compensation.

-- By voice vote Brown technical amendment to the Huckaby amendment agreed to.

-- By roll call vote 19 yeas-23 nays Huckaby amendment to the Rose substitute amendment to the Brown amendment on data compensation not approved.

-- By show of hands vote of 18 yeas-8 nays Rose substitute amendment to Brown data compensation amendment adopted.

-- By voice vote Brown data compensation amendment, as amended by Rose substitute, agreed to.

-- By roll call vote 31 yeas-9 nays Roberts uniform tolerance amendment agreed to.

-- By voice vote Stenholm motion to reconsider the vote on the Roberts amendment agreed to.

-- By voice vote Stenholm motion to table the Roberts amendment approved.

-- Without objection Morrison report language on liability adopted.

-- By roll call vote 42 yeas-1 nay H.R. 2482, as amended, ordered reported to the House in the presence of a quorum.

Wednesday, June 18, 1986
Full Committee
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Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Chairman de la Garza called the meeting to order for the continued consideration of H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments. Due to a number of votes on the House floor, at 10:31 a.m. the meeting was recessed to meet at 2:00 p.m.

Upon reconvening the meeting, the Chairman recognized Mr. Emerson to introduce a group of FFA members from Ripley County, Missouri. The guests were greeted by the Committee.

Mr. Jeffords was recognized to offer and explain the attached amendment on worker protection. Discussion occurred and by a voice vote the Jeffords amendment was agreed to. He then circulated the attached report language to accompany the amendment and without objection the language was approved for inclusion in the report.

Mr. Stangeland offered the attached amendment to reinstate the $50,000 initial fee requirement. Discussion occurred and by a show of hands vote of 14 yeas-7 nays the amendment was agreed to. Mr. Bedell requested a recorded vote and a sufficient number of Members supported the request. The vote follows:

YEAS

1. Mr. Whitley
2. Mr. Stenholm
3. Mr. Madigan
4. Mr. Jeffords
5. Mr. Marlenee
6. Mr. Stangeland
7. Mr. Roberts
8. Mr. Emerson
9. Mr. Morrison
10. Mr. Gunderson
11. Mr. Evans (Iowa)
12. Mr. Lewis
13. Mr. Smith
14. Mr. Combest
15. Mr. Schuette
16. Mr. English
17. Mr. Hopkins (proxy to Mr. Madiga
18. Mr. Chappie
19. Mr. Franklin
20. Mr. Coleman

NAYS

1. Mr. Brown
2. Mr. Rose
3. Mr. Bedell
4. Mr. Hatcher
5. Mr. Staggers
6. Mr. Thomas
7. Mr. Olin
8. Mr. Penny
9. Mr. Foley (proxy to Mr. de la Garza)
10. Mr. Jones (N.C.)(proxy to Mr. de la Garza)
11. Mr. Jones (Tenn.)(proxy to Mr. Bedell)
12. Mr. Panetta (proxy to Mr. Bedell
13. Mr. Huckaby
14. Mr. Glickman
15. Mr. Coelho (proxy to Mr. de la Garza)
16. Mr. Daschle (proxy to Mr. de la Garza)
17. Mr. Volkmer
18. Mr. Tallon
19. Mr. Evans (Ill.)(proxy to Mr. Bedell)
20. Mr. Bruce (proxy to Mr. de la Garza)
21. Mr. Stallings

Thus, by a roll call vote of 20 yeas-21 nays the Stangeland amendment was not adopted.

Wednesday, June 18, 1986
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Mr. Stangeland then offered the attached amendment to provide that reregistration fees may be one-third of the fee reuqired to be collected. Discussion occurred and by a show of hands vote of 9 yeas-10 nays the amendment was not agreed to.

Mr. Evans (Iowa) offered the attached proposal which would require the EPA to conduct a survey to establish the extent to which pesticides are manufactured by plants and thereby exist naturally in fruits, vegetables, grains, legumes, and oilseeds and consumed by persons in the United States. Discussion occurred and by a voice vote the proposal was adopted.

Mr. Brown offered the attached amendment on allocation of costs on data (cost-sharing). Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Brown then offered his amendment on data compensation. Discussion occurred.

Mr. Rose offered the attached substitute amendment on data compensation to the pending Brown amendment and discussion continued.

Mr. Huckaby offered the attached amendment to the Rose substitute amendment and discussion continued. Mr. Huckaby asked unanimous consent to reform his amendment to add the words "after the expiration of the patent" after the words "had elapsed", and there was no objection. Discussion continued.

Mr. Brown asked unanimous consent to amend the Huckaby proposal to strike the word "twice" in the 4th line. There was discussion that such an amendment would not be in order since it would be an amendment in the third degree. Mr. Brown again asked unanimous consent to make the change and there was no objection. By a voice vote the Brown amendment to the Huckaby amendment to the Rose substitute to the Brown amendment was approved.

By a show of hands vote the Huckaby amendment, as amended, was not agreed to. Mr. Huckaby requested a recorded vote and a sufficient number of Members supported the request. The vote follows:

Wednesday, June 18, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and Rodenticide Act Amendments
H.R. 2482

YEAS

1. Mr. Brown
2. Mr. Bedell
3. Mr. Huckaby
4. Mr. Whitley
5. Mr. Hatcher
6. Mr. Penny
7. Mr. Stangeland
8. Mr. Emerson
9. Mr. Evans (Iowa)
10. Mr. Lewis
11. Mr. Jones (Tenn.)(proxy to Bedell)
12. Mr. Weaver (proxy to Mr. Bedell)
13. Mr. Panetta (proxy to Mr. Bedell
14. Mr. Glickman (proxy to Mr. Bedell)
15. Mr. Daschle (proxy to Mr. de la Garza)
16. Mr. Evans (Ill.)(proxy to Mr. Bedell)
17. Mr. Jeffords (proxy to Mr. Madigan)
18. Mr. Marlenee
19. Mr. Hopkins (proxy to Mr. Madigan)

NAYS

1. Mr. Foley
2. Mr. Rose
3. Mr. Volkmer
4. Mr. Tallon
5. Mr. Staggers
6. Mr. Thomas
7. Mr. Stallings
8. Mr. Bruce
9. Mr. Madigan
10. Mr. Coleman
11. Mr. Roberts
12. Mr. Morrison
13. Mr. Gunderson
14. Mr. Franklin
15. Mr. Smith
16. Mr. Combest
17. Mr. Schuette
18. Mr. Jones (N.C.)(proxy to Mr. de la Garza)
19. Mr. English
20. Mr. Coelho (proxy to Mr. de la Garza)
21. Mr. Stenholm
22. Mr. Olin (proxy to Mr. de la Garza)
23. Mr. Chappie (proxy to Mr. Madigan)

Thus, by a roll call vote of 19 yeas-23 nays the Huckaby amendment, as amended, to the Rose substitute amendment to the Brown data compensation amendment was not approved. By a show of hands vote of 18 yeas-8 nays the Rose substitute amendment to the Brown amendment was adopted. By a voice vote the Brown amendment, as amended, was agreed to.

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Mr. Roberts offered the attached amendment on uniform tolerance (explanation also attached), and discussion occurred. The consensus of the Committee seemed to be in favor of the amendment; however, the Members were reminded that there was a possible jurisdictional problem with another Committee on the amendment and that it would be better to offer the proposal on the floor. After considerable discussion Mr. Stenholm advised that it would be his intention after the vote on the Roberts amendment to move to reconsider the vote and then move to delete the proposal from the bill to be reported. There was no objection to the procedure as outlined by Mr. Stenholm. Mr. Roberts requested a recorded vote on his amendment, and the clerk was directed to call the roll. The vote follows:

YEAS

1. Mr. Bedell
2. Mr. English
3. Mr. Stenholm
4. Mr. Volkmer
5. Mr. Hatcher
6. Mr. Stallings
7. Mr. Roberts
8. Mr. Emerson
9. Mr. Morrison
10. Mr. Gunderson
11. Mr. Evans (Iowa)
12. Mr. Franklin
13. Mr. Lewis
14. Mr. Smith
15. Mr. Combest
16. Mr. Schuette
17. Mr. Foley (proxy to Mr. de la Garza)
18. Mr. Jones (N.C.)(proxy to de la Garza)
19. Mr. Jones (Tenn.)(proxy to Mr. Bedell)
20. Mr. Huckaby (proxy to Mr. Bedell)
21. Mr. Whitley (proxy to Mr. Stenholm)
22. Mr. Coelho (proxy to Mr. de la Garza)
23. Mr. Tallon (proxy to Mr. Stenholm)
24. Mr. Madigan (proxy to Mr. Roberts)
25. Mr. Coleman (proxy to Mr. Roberts)
26. Mr. Marlenee
27. Mr. Hopkins (proxy to Mr. Roberts)
28. Mr. Stangeland (proxy to Mr. Roberts)
29. Mr. Chappie (proxy to Mr. Roberts)
30. Mr. Panetta (proxy to Mr. Bedell)
31. Mr. Rose (proxy to Mr. de la Garza)

NAYS

1. Mr. Brown
2. Mr. Glickman
3. Mr. Staggers
4. Mr. Olin
5. Mr. Penny
6. Mr. Bruce
7. Mr. Weaver (proxy to Mr. Bedell)
8. Mr. Daschle (proxy to Mr. de la Garza)
9. Mr. Jeffords (proxy to Mr. Roberts)

Thus, by a roll call vote of 31 yeas-9 nays the Roberts amendment was agreed to. Mr. Stenholm, having voted on the prevailing side, moved to reconsider the vote on the Roberts amendment. By a voice vote the motion was agreed to. Mr. Stenholm moved to table the Roberts amendment, and by a voice vote the motion was approved.

Mr. Morrison offered the attached report language on liability. Without objection the language was adopted for inclusion in the Committee report.

Mr. Bedell moved that H.R. 2482, as amended, be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was agreed to and Mr. Bedell asked for a recorded vote. A sufficient number of Members supported the request, and the vote follows:

YEAS

1. Mr. Brown
2. Mr. Bedell
3. Mr. English
4. Mr. Glickman
5. Mr. Stenholm
6. Mr. Volkmer
7. Mr. Penny
8. Mr. Stallings
9. Mr. Bruce
10. Mr. Morrison
11. Mr. Gunderson
12. Mr. Evans (Iowa)
13. Mr. Smith
14. Mr. Combest
15. Mr. Schuette
16. Mr. Foley (proxy to Mr. de la Garza)
17. Mr. Jones (N.C.)(proxy to Mr. de la Garza)
18. Mr. Jones (Tenn.)
19. Mr. Rose (proxy to Mr. de la Garza)
20. Mr. Weaver (proxy to Mr. Bedell)
21. Mr. Panetta
22. Mr. Huckaby (proxy to Mr. Bedell)
23. Mr. Whitley
24. Mr. Coelho (proxy to Mr. de la Garza)
25. Mr. Daschle (proxy to Mr. de la Garza)
26. Mr. Hatcher (proxy to Mr. Bedell)
27. Mr. Tallon (proxy to Mr. Stenholm)
28. Mr. Staggers (proxy to Mr. Bedell)
29. Mr. Evans (Ill.)(proxy to Mr. Bedell)
30. Mr. Thomas (proxy to Mr. de la Garza)
31. Mr. Olin (proxy to Mr. de la Garza)
32. Mr. Madigan (proxy to Mr. Roberts)
33. Mr. Jeffords (proxy to Mr. Roberts
34. Mr. Coleman (proxy to Mr. Roberts)
35. Mr. Hopkins (proxy to Mr. Roberts)
36. Mr. Stangeland (proxy to Mr. Roberts)
37. Mr. Roberts
38. Mr. Emerson
39. Mr. Chappie (proxy to Mr. Roberts)
40. Mr. Franklin (proxy to Mr. Roberts
41. Mr. Lewis
42. Mr. de la Garza

NAYS

1. Mr. Marlenee

Wednesday, June 18, 1986
Full Committee
Business Meeting
Federal Insecticide, Fungicide, and
Rodenticide Act Amendments
H.R. 2482

Thus, by a roll call vote of 42 yeas-1 nay the motion was agreed to and H.R. 2482, as amended, was ordered reported to the House in the presence of a quorum (23 Members present and voting). Staff was given permission to make any necessary clerical and technical changes.

During the proceedings recesses were taken at 10:31 a.m. and 2:40 p.m. to enable Members to respond to recorded votes on the House floor. At 6:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

FIFRA70

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. JEFFORDS

[EPA & OSHA]

Page 123, strike out lines 11 through 20 and insert in lieu thereof the following:

``(c) EFFECT ON CERTAIN OTHER LAWS.--The Administrator, in exercising any authority under this Act, shall not, for the purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health to the extent that the Administrator and the Secretary of Labor by agreement specify that such exercise of authority by the Administrator under this Act is not to be considered an exercise of statutory authority for purposes of such section 4(b)(1). To ensure the safety and health of workers, the Administrator and the Secretary of Labor shall seek to reach such agreements and to coordinate the exercise of their statutory authority.''.

JEFFORDS

Report language to Sections 501(a) and 2301 of H.R. 2482, FIFRA Amendments of 1986

Section 501(a)

A Material Safety Data Sheet (MSDS) developed in accordance with the Hazard Communication Standard (29 CFR 1910.1200) will be considered generally sufficient to meet the requirements of this provision. However, the Administrator may require the supplementation of the MSDS with such information as the Administrator may deem appropriate. For example, the Administrator may choose to include environmental data on the fact sheet.

Section 2301

Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (OSHA) provides that OSHA shall not apply to working conditions of employees where other federal agencies are exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The purpose of Section 4(b)(1) is to prevent duplication of effort among federal agencies charged with the protection of workers' safety and health. Section 2301 of H.R. 2482 would retain the principle of 4(b)(1) of OSHA while making it clear that the Department of Labor (DOL) and the Environmental Protection Agency (EPA) should enter into agreements to clarify their respective exercise of statutory authority. It is the intent of the Committee that the courts shall give deference to such agreements.

As an example, EPA might be in the best position to advise applicators on the proper handling of a pesticide, while DOL might be better able to establish safeguards for other workers. When this is the case, and when the agencies can reach an agreement, Section 2301 would give explicit statutory authority for such an agreement.

[For information only -- not for inclusion in the report.]

Sec. 4(b)(1) Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

Amendment to Committee Print of H.R. 2482

Offered by Mr. Stangeland

[Reregistration Fees]

Page 39, line 18, strike out "$100,000" and insert in lieu thereof "$150,000".

Amendment to Committee Print of H.R. 2482

Offered by Mr. Stangeland

[Reregistration Fees]

Page 40, strike the sentence commencing on line 3 and ending on line 5 and insert in lieu thereof:

"Such fees shall be one-third of the fees required by paragraphs (1) and (2)."

Amendment to H.R. 2482
Offered by Mr. Evans of Iowa

Title XXVII is amended by adding the following new section after section 2703 and by renumbering subsequent sections accordingly:

"SECTION 2704. Naturally Occurring Agents That Act as Pesticides Survey.

The Administrator shall conduct a survey to determine what research has been, or is being, conducted to establish the extent to which agents that act as pesticides are manufactured by plants and thereby exist naturally in the fruits, vegetables, grains, legumes and oilseeds commonly consumed by persons in the United States. The Administrator shall provide a report on the findings of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31,1987, and shall release such findings to the public. The report shall include information on the extent to which such naturally occurring agents that act as pesticides have been identified, the nature of such agents and the extent to which such naturally occurring agents that act as pesticides have been shown to be toxic, carcinogenic or mutagenic.".

FIFRA77

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BROWN

[3(c)(2)(B)]

( ) Section 3(c)(2)(B)(ii) (7 U.S.C. 136a(c)(2)(B)(ii)) is amended to read as follows:

``(ii)(I) Each registrant of a pesticide for which a notice was issued under clause (i) shall provide evidence within 90 days after receipt of such notification that it is taking appropriate steps to secure the additional data that are required under such notice.

``(II) Each registrant of a pesticide that are used for application on food, feed, or fiber shall agree to develop jointly the additional data that are required under such notice.

``(III) In the case of other pesticides, two or more registrants of such pesticides may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within 90 days after notification. Any such registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

``(IV) If a pesticide is used for application on food, feed, or fiber and for other purposes, the registrants of such a pesticide shall be subject to subclause (II) or (III), whichever the majority of the registrants of that pesticide shall agree to.''.

BROWCA066

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. BROWN

[Data Compensation]

Page 139, insert after line 6 the following:

SEC. 2705. DATA COMPENSATION.

Section 3(c)(1)(D)(ii) (7 U.S.C. 136a(c)(1)(D)(ii)) is amended by inserting ``for an appropriate share of the cost of such data'' in the first sentence after ``if the applicant has made an offer to compensate the original data submitter''.

Rose

FIFRA66

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482

[Data Compensation]

Page 139, insert after line 6 the following:

SEC. 2705. DATA COMPENSATION.

(a) COMPENSATION.--Section 3(c)(1)(D) (7 U.S.C. 136a(c)(1)(D)) is amended by adding at the end the following:

``(iv) If the term of a patent for a pesticide registered under this section is extended after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 under an act of Congress that amends title 35, United States Code, to authorize an extension of the term of a patent for a pesticide that had not expired before the date of enactment of such Act irrespective of the date the pesticide under went a regulatory review period as defined in such title, the amount of compensation to be paid under arbitration under clause (ii) for the use of data submitted to the Administrator for such pesticide shall be the fair share of the cost of producing the data plus a value premium not to exceed that share, as determined in an arbitration process.''.

(b) ARBITRATION.--Section 3(c)(1)(D)(ii) (7 U.S.C. 136a(c)(1)(D)(ii)) is amended by adding at the end the following:

``An offer to compensate the original data submitter may be made, and an arbitration may be conducted, before the applicant's submission of an application. Each party to such an arbitration shall equally share in the costs of the arbitration, including its own attorney's fees. In any subsequent arbitration involving the same data involved in the earlier arbitration, the party who seeks to cite the data in the arbitration shall pay to the original data submitter the cost of the arbitration, including attorney's fees. If an arbitration award is rendered after the submission of an application, the award shall be final and binding and the parties to the arbitration shall share equally in the payment of the fees and expenses of the arbitrators.''.

Cong. Huckaby

AMENDMENT TO ROSE SUBSTITUTE

Strike out line 4 on page 1 and all that follows and insert in lieu thereof:

"(iv) The amount of compensation to be paid under arbitration under clause (ii) for the use of data submitted to the Administrator for a pesticide shall be an amount not more than twice the actual cost of producing the data if a period of at least three years had elapsed after the expiration of the appropriate patent relating to the pesticide, in the case of those pesticides for which the patent had expired prior to the date of enactment of the FIFRA Amendment of 1986, and if a period equivalent to the regulatory review period had elapsed not to exceed a period of five years in the case of all other pesticides, except that if the term of a patent relating to the pesticide had been extended under an Act of Congress, the amount of such compensation, upon the expiration of such extended term, shall be based on the fair share of the cost of producing such data, plus a premium not to exceed that share.

FIFRA50

AMENDMENT TO COMMITTEE PRINT OF H.R. 2482
OFFERED BY MR. ROBERTS

Page 136, insert the following after line 25:

TITLE XXVI--FOOD PRODUCTION AND MARKETING UNIFORMITY

SEC. 2601. FOOD PRODUCTION AND MARKETING UNIFORMITY.

The Act (as amended by section 2502) is amended by adding at the end the following:

``SEC. 34. FOOD PRODUCTION AND MARKETING UNIFORMITY.

``(a) INTENT.--It is the intent of Congress to assure a safe and reasonably priced food supply for consumers. In order to achieve this goal, it is declared to be the express intent of Congress to require national uniformity in the regulation of the levels of residues of pesticides in or on food in order to permit national marketing of all food products without jurisdictional barriers.

``(b) NATIONAL UNIFORMITY.--

``(1) Except as provided in subsections (e) and (h), no State or political subdivision thereof may establish, continue in effect, or enforce any requirement or prohibition that--

``(A) directly or indirectly establishes a permissible level for a residue of a pesticide in or on food if such a level has been established under a

Federal law or a regulation or interpretation issued thereunder, and

``(B) is not identical with the requirements or prohibitions of such Federal law and of the regulations and interpretations issued thereunder,

if the use of the pesticide resulting in the residue is registered with the Administrator on the basis of data meeting the requirements of paragraph (2) of this subsection or if the use of pesticide resulting in the residue has not been registered with the Administrator or has been registered with the Administrator on the basis of data meeting the requirements of paragraph (2) of this subsection and later cancelled or suspended and the permissible level for the residue has been established or reaffirmed by the responsible Federal official on or after the date of enactment of this subsection.

``(2) For purposes of this subsection, a pesticide shall be deemed to be registered with the Administrator with respect to a use on the basis of data meeting the requirements of this paragraph if--

``(A) the initial registration or reregistration of the pesticide for that use was approved under section 3(c)(5) of this Act on or after April 25, 1985, or

``(B) the initial registration or reregistration of the pesticide for that use was approved under section 3(c)(5) of this Act prior to April 25, 1985, on the basis of data determined by the Administrator to meet or be equivalent to the requirements of part 158 of title 40 of the Code of Federal Regulations that became effective on April 25, 1985.

``(c) CONCURRENT JURISDICTION.--

``(1) Any State may exercise concurrent jurisdiction over the levels of residues of pesticides in or on food for the purpose of enforcing requirements or prohibitions identical with those established in the Federal law referred to in subsection (b)(1) and in the regulations and interpretations issued thereunder.

``(2) For purposes of paragraph (1), the Federal official responsible for the implementation of a Federal law referred to in subsection (b)(1) shall--

``(A) cooperate with and provide relevant information to State officials engaged in the regulation of the levels of residues of pesticides in or on food, and

``(B) provide training and enter into contracts with such officials to facilitate more effective uniform national regulation of the levels of residues of pesticides in or on food, except that the authority to enter into contracts under this paragraph shall be to such extent or in such amounts as are provided in appropriation Acts.

``(d) PETITION.--

``(1) Any State thereof may petition the Federal official responsible for the implementation of a Federal law referred to in subsection (b)(1) to adopt by regulation as a Federal requirement or prohibition an existing or proposed State requirement or prohibition relating to the levels of residues of pesticides in or on food.

``(2) Within 180 days after receipt of any such petition, such Federal official shall--

``(A) respond specifying the substantive action that is being taken on such petition, and

``(B) if such action includes the adoption of a new Federal requirement or prohibition, initiate the appropriate administrative proceeding to implement such action.

``(3)(A) If such Federal official fails to respond or to initiate any appropriate action within the 180 days specified in paragraph (2) of this subsection, the State that submitted the petition may notwithstanding the provisions of subsection (b), establish and enforce within its own jurisdiction the requirement or prohibition that was the subject of the petition, as an interim requirement or prohibition.

``(B) Such an interim requirement or prohibition may be contested by any person under the declaratory judgment provisions of section 2201 of title 28, United States Code, on the ground that the interim requirement or prohibition does not meet the standards established in paragraphs (1) and (2) of subsection (e). In any such action, the State shall bear the burden of proving that such interim requirement or prohibition meets such standards.

``(C) Such an interim requirement or prohibition may remain in effect until--

``(i) the Federal official takes action on the petition and initiates any appropriate administrative proceeding pursuant to paragraph (2) of this subsection and such action rejects the interim requirement or prohibition, or

``(ii) a court determines that the interim requirement or prohibition has not been shown by the State to meet the standards established in paragraphs (1) and (2) of subsection (e),

whichever occurs earlier.

``(e) EXEMPTIONS.--Upon petition of a State, the Federal official responsible for the implementation of a Federal law referred to in subsection (b)(1) may, by regulation promulgated after notice and opportunity for an oral hearing, exempt from subsection (b), under such conditions as may be prescribed in such regulation, a requirement or prohibition of such State relating to the levels of residues of pesticides in or on food in that State if such requirement--

``(1)(A) is justified by compelling and unique local conditions that do not exist elsewhere in the United States, or

``(B) is justified because the subject matter regulated by such requirement or prohibition is primarily local in nature and the Federal official responsible for the implementation of such a Federal law is not exercising jurisdiction over the subject matter regulated by such requirement or prohibition, and

``(2)(A) protects an important public interest that would otherwise be unprotected,

``(B) would not cause any food to be in violation of any applicable requirement or prohibition under Federal law, and

``(C) would not unduly burden interstate commerce.

``(f) ADVISORY COMMITTEE.--For purposes of assuring effective and uniform implementation of all laws regulating the levels of residues of pesticides in or on food, the Federal officials responsible for implementation of a Federal law referred to in subsection (b)(1) shall establish an advisory committee comprised of 11 State officials engaged in the regulation of the levels of residues of pesticides in or on food.

``(g) RESPONSIBLE FEDERAL OFFICIAL.--A petition submitted under subsection (d) or (e) shall be acted upon by the highest Federal official responsible for the implementation of the Federal law involved and the authority to act on such a petition may not be delegated. The advice of the advisory committee established under subsection (f) shall be obtained before action is taken upon any such petition unless the petition relates to an imminent hazard determination under subsection (h).

``(h) IMMINENT HAZARD.--

``(1) Notwithstanding the provisions of subsection (b), a State may establish and enforce within its own jurisdiction any requirement or prohibition that directly or indirectly establishes a permissible level for a residue of a pesticide in or on food if--

``(A) after an opportunity for written comment and a public hearing, it has been demonstrated that--

``(i) the permissible level for a residue of that pesticide in or on food established under a Federal law or a regulation or interpretation issued thereunder constitutes an imminent hazard to public health in that State because it presents an unreasonable, direct, and substantial danger to the health of individuals, and

``(ii) the additional protection provided by such requirement or prohibition is necessary to prevent such imminent hazard, and

``(B) within 10 days after the State announces that it is promulgating the requirement or prohibition, the State has submitted a petition under subsection (d) or (e).

``(2) Any requirement or prohibition established or enforced under paragraph (1) may be contested by any person under the declaratory judgment provisions of section 2201 of title 28, United States Code, on the ground that such requirement or prohibition does not meet the standards established in subparagraphs (A) and (B) of paragraph (1). In any such action, the State shall bear the burden of proving that such requirement or prohibition meets such standards.

``(3) Any requirement or prohibition established or enforced under paragraph (1) may remain in effect until--

``(A) the Federal official takes action on the petition submitted under subsection (d) or (e) and such action rejects such requirement or prohibition, or

``(B) a court determines that the requirement or prohibition has not been shown by the State thereof to meet the standards established in subparagraphs (A) and (B) of paragraph (1),

whichever occurs earlier.''

Page 49, line 21, strike out ``34'' and insert in lieu thereof ``35'', on page 137, lines 4 and 7, strike out ``34'' and insert in lieu thereof ``35'', and on page 152, strike out ``34'' and insert in lieu thereof ``35''.

Titles XXVI through XXX and the sections of such titles are redesignated accordingly and the table of contents of the bill and Act are amended to reflect the amendment.

Provisions of the Uniform Tolerance Amendment

1. Expresses the Sense of Congress in support of national uniformity in pesticide residues.

2. Prohibits a state or political subdivision from establishing a tolerance not identical to the Federal standard, but only if the Federal standard has been established based on the new data requirements except:

3. A state may petition Federal officials to adopt the state tolerance

4. Provides for exemptions from the Federal tolerance, if the state can demonstrate a compelling and unique local condition.

5. Establishes an advisory committee of state to advise the Federal government on the issue of tolerances.

Morrison

Report Language on the Liability Section:

"Nothing in this subsection shall in any way imply a private cause of action under FIFRA."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 25, 1986

(Sub) Committees: Domestic Marketing, Consumer Relations, and Nutrition; Elementary, Secondary, and Vocational Education; Human Resources; Science, Research, and Technology; and Select Committee on Hunger

met at 9:45 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of holding a joint public hearing and receiving testimony on H.R. 4990, the Hunger Relief Act of 1986

The following Members were present:

DMCRN	Hunger	Members Also Present:
Mr. Panetta	Mr. Leland	Mr. Roberts
Mr. Glickman	Mr. Panetta	Mr.
Mr. Staggers	Mr. Roukema	Mr.
Mr. Emerson	Mr. Emerson	Mr.
Mr. de la Garza	Mr. Gilman	Mr.
Mr. ex officio	Mr. Smith	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:

Agriculture
Charles Rawls
Mark Dungan
Bernard Brenner
Jim Rotherham
Debbie Dawson
Lynn Gallagher
Glenda Temple

Hunger
Miranda G. Katsoyannis
Shirley Cavanaugh
Cheryl Tates

Science, Research, and Technology
Grace Ostenso
Maureen Sullivan

Education and Labor
Susan Wilhelm
Trudy Wright
June Harris

Witnesses:

1. Panel: How the Hunger Relief Act of 1986 will Affect the Working Poor and Rural Americans

   Ms. Denise O'Brien, Vice Chairwoman, Iowa Farm Unity Coalition, Atlantic, Iowa

   Ms. Carol Croce, Executive Director, Wisconsin Nutrition Project, Madison, Wisconsin

   Mr. Sol H. Chafkin, Executive Vice President, Local Initiatives Support Corporation, New York, New York

2. Hands Across America

   Ms. Judy Collins, Hands Across America, Los Angeles, California

3. Panel on Aged:

   Ms. Toby Felcher, Special Assistant to the Executive Director, Baltimore Commission on Aging and Retirement Education, Baltimore, Maryland

   Acc. by: Ms. Blanche McPherson, Congregate Nutrition Program Participant, Baltimore, Maryland

Statement Submitted for the Record:

1. Hon. Robert Dole, United States Senator from Kansas

Wednesday, June 25, 1986
Joint Public Hearing - a.m.
Domestic Marketing, Consumer Relations,
  and Nutrition Subcommittee
Elementary, Secondary, and Vocational
  Education Subcommittee
Human Resources Subcommittee
Science, Research, and Technology
  Subcommittee
Select Committee on Hunger
Hunger Relief Act of 1986
H.R. 4990

Chairman Panetta called the meeting to order for the joint hearing of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture with the Subcommittees on Elementary, Secondary, and Vocational Education and Human Resources of the Committee on Education and Labor; the Science, Research, and Technology Subcommittee of the Committee on Science and Technology; and the Select Committee on Hunger. The purpose of the hearing was to receive testimony on legislation to make a meaningful contribution to eliminate hunger and malnutrition in the United States. Messrs. Panetta, Emerson, Leland, and Gilman made opening statements.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on H.R. 4990. Following their presentations, the witnesses were questioned by the Members of the Subcommittees present.

During the proceedings one recess was taken at 10:00 a.m. to enable Members to respond to a recorded vote on the House floor. At 12:00 noon Chairman Leland adjourned the meeting to reconvene at 1:30 p.m. this date to hear other scheduled witnesses.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 25, 1986

(Sub) Committees: Domestic Marketing, Consumer Relations, and Nutrition; Elementary, Secondary, and Vocational Education; Human Resources; Science, Research, and Technology; and Select Committee on Hunger

met at 1:40 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing a joint public hearing and receiving testimony on H.R. 4990, the Hunger Relief Act of 1986

The following Members were present:

	DMCRN		ESVE		SRT
Mr.	Panetta	Mr.	Owens	Mr.	Walgren
Mr.		Mr.		Mr.	Bruce
Mr.		Mr.		Mr.	
Mr.	Human Resources	Mr.		Mr.	
Mr.	Bruce	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
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Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

Staff Present:

Agriculture	Hunger	Education and Labor
Jim Rotherham	Miranda G.Katsoyannis	Susan Wilhelm
Debbie Dawson	Shirley Cavanaugh	Trudy Wright
Lynn Gallagher	Cheryl Tates	June Harris
Glenda Temple		
	Science, Research, and Technology	
	Grace Ostenso	
	Maureen Sullivan	

Witnesses:

1. Panel: Nutrition Programs for the Young

   Ms. Shirley R. Watkins, Director, Food and Nutrition Services, Memphis City School, Memphis, Tennessee

   Mrs. Linda Locke, Nutrition Director, Community Coordinated Child Care Program, Louisville, Kentucky

   Mr. C. Richard Blount, Chief, Missouri Special Supplemental Food Program for Women, Infants, and Children (WIC) Program, and former President, National Association of WIC Directors, Jefferson City, Missouri

   Ms. Brenda Lucas, WIC Parent, Baltimore, Maryland

2. Panel:

   Ms. Janice M. Dodds, Director, Nutrition Surveillance Program, New York State Department of Health, Albany, New York

   Dr. Victor W. Sidel, Past President, American Public Health Association; Distinguished University Professor at Albert Einstein Medical School; Member, Physician Task Force on Hunger in America, Bronx, New York

Wednesday, June 25, 1986
Joint Public Hearing - p.m.
Domestic Marketing, Consumer Relations,
  and Nutrition Subcommittee
Elementary, Secondary, and Vocational
  Education Subcommittee
Human Resources Subcommittee
Science, Research, and Technology
  Subcommittee
Select Committee on Hunger
Hunger Relief Act of 1986
H.R. 4990

Acting Chairman Owens called the meeting to order to continue the joint hearing of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture with the Subcommittees on Elementary, Secondary, and Vocational Education and Human Resources of the Committee on Education and Labor; the Science, Research, and Technology Subcommittee of the Committee on Science and Technology; and the Select Committee on Hunger.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony on H.R. 4990. Following their presentations, the witnesses were questioned by the Members of the Subcommittees present.

At 3:35 p.m. Chairman Walgren adjourned the meeting, subject to the call of the respective Chairs.

Glenda Temple

Glenda Temple